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ENVIRONMENTAL ASSESSMENT BOARD

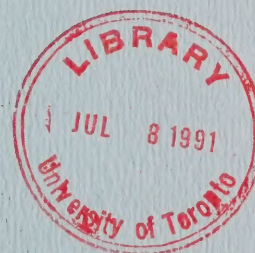
VOLUME: 321

DATE: Thursday, June 13, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member



FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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ASSOCIATES &
REPORTING INC.

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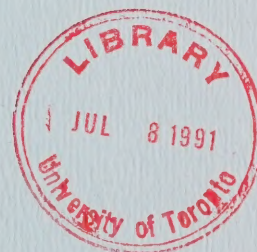
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the Red Dog Inn, 200 Stewart
Street, Fort Frances, Ontario, on Thursday,
June 13th, 1991 commencing at 9:10 a.m.

VOLUME 321

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



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I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>STEVE JOURDAIN</u> ; Sworn.	56553
Direct Examination by Mr. Colborne	56553
Cross-Examination by Mr. Wadden	56569
Cross-Examination by Ms. Gillespie	56571
Cross-Examination by Mr. Freidin	56574
Re-Direct Examination by Mr. Colborne	56586
<u>ARNOLD GARDNER</u> ; Affirmed.	56592
Direct Examination by Mr. Colborne	56593
Cross-Examination by Mr. Cassidy	56610
Cross-Examination by Ms. Gillespie	56620
Cross-Examination by Mr. Freidin	56623
Re-Direct Examination by Mr. Colborne	56634
<u>CHIEF KELVIN CHICAGO</u> , Recalled	56638
Direct Examination by Mr. Colborne	56638
Cross-Examination by Mr. Wadden	56652
Cross-Examination by Mr. Freidin	56654
<u>VALERIE PIZEY</u> , Sworn	56657
Direct Examination by Mr. Colborne	56657
Cross-Examination by Mr. Freidin	56661
<u>GRAND CHIEF STEVE FOBISTER</u> , Affirmed	56666
Direct Examination by Mr. Colborne	56666
Cross-Examination by Mr. Cassidy	56679
Cross-Examination by Mr. Freidin	56708
Re-Direct Examination by Mr. Colborne	56713
<u>GRAND CHIEF STEVE FOBISTER</u> , <u>CHIEF BRIAN PERRAULT</u> , <u>SONNY McINNES</u> , Affirmed <u>CHIEF KELVIN CHICAGO</u> , Recalled	56721
Direct Examination by Mr. Colborne	56724
Cross-Examination by Ms. Gillespie	56786
Cross-Examination by Mr. Freidin	56795
Re-Direct Examination by Mr. Colborne	56841

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1887A	One-page letter dated May 30, 1988 from Simon Fobister to G. Pyzer, Manager, MNR Kenora.	56683
1887B	Letter dated July 4, 1988 from Boise Cascade to Simon Fobister.	56684
1887C	Comment form written by Simon Fobister re: Pakwash Forest dated December 15, 1988.	56684
1887D	Comment sheet dated January 4, 1989 from Simon Fobister.	56686
1887E	Letter dated January 9th, 1989 to Simon Fobister of Grassy Narrows Band.	56688
1887F	Letter dated January 30, 1989 re: Keys Lake site from G. Pyzer to Simon Fobister.	56689
1887G	Letter dated February 7, 1989 from Mr. Baird, Superintendent of Planning Development of Boise Cascade to Simon Fobister.	56691
1887H	Memo dated February 9, 1989 from Mr. Jack Harrison.	56692
1888A	Order-In-Council licence re: Grassy Narrows Band.	56694
1888B	Letter to Mr. Prebble re: planned cutting areas in proposed Sunshine Road.	56696
1888C	Letter dated June 28, 1988 from Mr. Prebble to Mr. Macdonald.	56697

INDEX OF EXHIBITS (Cont'd)

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1888D	Letter dated July 4, 1988 from Mr. Macdonald to Mr. Prebble. Letter dated February 16th, 1989 from Grassy Narrows Band to Mr. Prebble.	56698
1888E	Letter dated February 22, 1989 from Boise Cascade to MNR.	56698
1888F	Copy of agreement dated March 1, 1989 between Grassy Narrows Band and Boise Cascade.	56700
1888G	Copy of agreement dated March 1, 1989 between Grassy Narrows Band and Boise Cascade.	56701
1889	MNR Interrogatory Question Nos. 2-8 and 10-26 inclusive and responses thereto, and MOE Interrogatory Question No. 5 re: GCT No. 3, Panel 3.	56715
1890	Witness statement for GTC No. 3 Panel No. 6.	56722
1891	Document entitled: The Fishing Rights of the Treaty 3 Indians, dated July, 1986.	56768
1892	Collection of letters dating from February 17, 1986 to April 13, 1989 with respect to Grand Council Treaty 3's request to Government of Ontario to respect the terms of Treaty 3.	56773
1893	MNR Interrogatory questions and responses thereto re: GCT No. 3, Panel No. 6.	56798
1894	Letter dated May the 15th, 1991 addressed to Chief Fobister.	56809

INDEX OF EXHIBITS (Cont'd)

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1895	Document dated May 7th, 1991, entitled: Interim Enforcement Policy re: Game and Fish Act, Fisheries Act, and Migratory Bird Convention Act in relation to Aboriginal People in Ontario.	56812

1 ---Upon commencing at 9:10 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Mr. Colborne.

5 MR. COLBORNE: Good morning, Madam Chair.
6 My first witness is Chief Steve Jourdain.

7 If you can give me just a moment, I want
8 to confer with Mr. Freidin about something which Chief
9 Jourdain just brought to my attention.

10 ---Off the record discussion

11 STEVE JOURDAIN; Sworn

12 DIRECT EXAMINATION BY MR. COLBORNE:

13 Q. Chief Jourdain, I noticed when you
14 came forward you carried with you an eagle feather.
15 Could you tell the Board the significance of that
16 feather.

17 A. The significance of a feather in our
18 culture is the same as swearing on the bible in your
19 culture. This will affirm that the testimony I am
20 going to give is from my heart and as far as I know is
21 the truth. And this is my commitment to our Creator
22 that I am bound to do that. I am not here to offend
23 your customs or anything; I am just here to tell you
24 the truth, as I know it.

25 Q. Chief Jourdain, your band is the Lac

1 La Croix Band; is that correct?

2 A. That's correct.

3 Q. And I can tell you that it was very
4 ably represented here by Mr. Ed Atatiste who attended
5 as your representative about 10 days ago.

6 And the reason why I asked you to come
7 today because you were available is to ask questions
8 only about certain matters that you dealt with
9 personally and that Mr. Atatiste would not have had
10 direct knowledge of.

11 Those matters are, firstly, the recent
12 dealings with the Quetico Park situation because we had
13 before this Board on June 3rd some indication of what
14 was happening and perhaps that there was a resolution
15 or a partial resolution in sight.

16 Secondly, about the dealings with your
17 own trapline and possible damage to it, and the
18 implications.

19 And thirdly, the reference in the witness
20 statement to your having applied for a job as a park
21 ranger and what happened with that.

22 I don't propose to ask any questions
23 concerning other matters in relation to Lac La Croix
24 since those were covered by Mr. Atatiste, but please
25 don't hesitate to tell us anything you think is

1 relevant.

2 On the first question, or the first
3 point, we had on June 3rd a draft statement to the
4 Legislature which suggested that the serious problem
5 concerning Quetico Park mentioned in the witness
6 statement might be in the process of resolution.

7 Could you just give us the latest on
8 that. And maybe I will just ask you specifically: Was
9 the statement that we had - and unfortunately I have
10 lost my note of the exhibit number, I think it would be
11 1868, yes, it is 1868 - was this statement in fact
12 given? I will show it to you.

13 A. Yes, this statement was made in the
14 Legislature by the Honourable Bud Wildman on Monday,
15 June 3rd, in the presence of myself, my council, our
16 hereditary council and other members of our elders. As
17 far as the exact wording to that, I haven't had time to
18 read it; but from what I can see of it, it's what was
19 said.

20 Q. It was said here that your witness
21 statement or the witness statement contained some
22 strong language, and perhaps that reference was the
23 language referring to the Quetico Park problem. What
24 is your view? Is the Quetico Park problem on its way
25 to being solved now? Or how would you describe it?

1 A. We placed a lot of emphasis on
2 getting the Ontario Government to finally admit that
3 there was some... All was not right in the creation of
4 Quetico. We are a hurting people, as was exhibited by
5 elders in the Legislature when the apology was made.

6 And we believe that we are on our way
7 because we had to deal first with the acknowledgement
8 by the Ontario Government that there was something done
9 that's not right. And also we came to an agreement for
10 this coming year that will enable us to continue to
11 exist.

12 But at the same time too, we have an
13 agreement to negotiate all of Quetico within this next
14 coming year, so we believe a resolution is possible and
15 a resolution is on its way.

16 Q. Thank you. I now want to ask a few
17 questions about your own trapline. I showed you a copy
18 of Exhibit 1877, just before we came in here, being a
19 collection of letters provided by the Ministry of
20 Natural Resources. Did you have a chance to at least
21 quickly look through that collection of letters?

22 A. I have.

23 Q. Is there anything missing?

24 A. From what I can see, there are two
25 items missing. What I feel is very crucial to me, the

1 letter that started all this is missing from the file
2 and I believe it's just an ongoing, an ongoing -- I
3 will back up a little bit.

4 It's typical of the way I have been
5 treated by MNR anyway, that they should choose to
6 eliminate a document that is to me is very important.
7 And that letter was to the former Minister of Natural
8 Resources, Lynne McLeod, where I had registered my
9 concern over my applications for jobs and my
10 application for an additional hunting ground. And that
11 is not in the documentation and it should be. And why
12 isn't it?

13 And the second documentation that's not
14 available in this packet is the reason -- the original
15 reasons why my application to trapping ground was
16 rejected in the first place, the rationale that they
17 used.

18 Q. Do you still have your copies of
19 those documents?

20 A. I don't have the document on me. I
21 might have in my office, but not on me.

22 Q. You would have no hesitation in
23 providing copies for the Board if you still have your
24 copies of the missing documents, I gather?

25 A. No, I'll get it. I will get it.

1 Q. Now, Chief Jourdain, there was a
2 hearing before the Game and Fish Hearing Board as to
3 the refusal of MNR to grant you a trapping ground that
4 was being abandoned or which was available for sale by
5 Mrs. Lessard; is that correct?

6 A. That is correct. And I received that
7 information by official letter back from MNR.

8 Q. And we do have a map showing these
9 trapping grounds, and I wonder if I could just have a
10 moment to see if we can locate it.

11 MR. FREIDIN: The map of the trap lines?
12 Exhibit 1875, which I think the court reporter has, Mr.
13 Colborne.

14 MR. COLBORNE: Q. Chief Jourdain, we
15 have Exhibit 1876 up on the board and I believe it's in
16 red marker the boundaries between various traplines to
17 the west and north of the Lac La Croix Reserve. Can
18 you see from where you are sitting?

19 A. Yes, I can.

20 Q. Could you show us the trapline that
21 you applied for and were refused and which resulted in
22 the Game and Fish Hearing Board?

23 A. Okay. This is my current trapping
24 ground, this part here, and the trapping ground I
25 applied for is the one adjacent to mine.

1 Q. And what happened? I am not asking
2 you for details of the reasons or the thinking or the
3 evidence before the Game and Fish Hearing Board because
4 we have a copy of their decision and it has been filed.
5 But what was the main feature of that hearing in terms
6 of whether that trapping ground was even available or
7 not?

8 A. Can you... I am confused by the
9 question.

10 Q. Okay. The reasons and the outline of
11 evidence of the Game and Fish Hearing Board have been
12 filed as Exhibit 1869. And I am not asking you to go
13 into that unless you wish to say something about it.
14 My question concerns simply whether or not that
15 trapline that you applied for and which was refused
16 really was available?

17 A. Okay. I must state from the
18 beginning the reason why I am here is to clarify what I
19 went through and what my people are going through. And
20 I am happy to answer any kind of question.

21 But the way I understand things now is
22 that I applied for that trapping ground in good faith.
23 It was advertised by open letter to all trappers. And
24 I applied for it with that knowledge. And when finally
25 I did apply for it, I found out I didn't get it, I

1 started asking questions as to why I didn't get it.

2 And in the Hearing Board it became
3 evident that there was a collusion in place all the
4 while, where there was no process where I could apply
5 and acquire that trapping ground legally and honestly.
6 A trapping ground was being made available to the -- in
7 a private deal between the owner of that trapping
8 ground and the helper to that ground. It was the plan
9 all the while.

10 In fact, I have seen documentation now
11 where that trapping ground is no longer available
12 because the helper cannot get it. So, everything has
13 changed around again. It's just that the process
14 itself is a farce. The application -- the
15 advertisement of that trapping ground was a farce all
16 along, and that should be brought out to the public.

17 Q. Can you tell us just in as
18 straightforward terms as possible why it's a farce in
19 this particular case?

20 A. Again?

21 Q. Why was it a farce in this particular
22 case?

23 A. Well, a deal was made between the
24 trapper, Elizabeth Lessard, to sell that ground to the
25 helper. That was the plan all the while.

1 Q. And when you applied for it, what
2 happened?

3 A. I applied for it and they went
4 through this facade of going through a system.

5 Q. And then what did Elizabeth Lessard
6 say?

7 A. Elizabeth Lessard then took that
8 trapping ground off the -- took it back, and it is no
9 longer available.

10 Q. And then she said "If Steve Jourdain
11 applies for it, it's not available, but it --

12 MR. FREIDIN: Wait a minute. Just ask
13 him what happened. Don't put words in his mouth.

14 MR. COLBORNE: Well, the record speaks
15 for itself anyway. I have a transcript from the Game
16 and Fish Hearing Board. It was a farce. Not the
17 Board. But everything MNR did was a total farce.

18 MR. FREIDIN: I want Chief Jourdain's
19 evidence, not yours, please.

20 THE WITNESS: Okay, I'm never -- I guess
21 that's what it implies, you know, that if I apply for
22 it, it's no longer available. Only if this person that
23 got it applies for it, then it's no longer available to
24 anybody I would gather.

25 MR. COLBORNE: Q. And MNR went right

1 along with that, didn't they?

2 A. Obviously, yes. I am convinced of
3 that. I know that.

4 Q. Why do you know that?

5 A. Because this isn't the only time that
6 they have done that to me. They have done that to me
7 in other cases.

8 Q. What other cases?

9 A. The cases where jobs in Quetico were
10 falsely advertised as being available.

11 Q. What happened? That you know about?

12 A. The job at Beaverhouse Lake ranger
13 station, the attendant job was advertised in a local
14 paper, Fort Frances and Atikokan paper, and also by
15 letter to the Lac La Croix Band.

16 And I applied for that position under the
17 Quetico Park agreement and also the fact that I live
18 there and I have also went through the MNR program as a
19 young person. I applied under that. And there again I
20 was informed that I came in second in that position,
21 although I was qualified to do it.

22 Q. What did you subsequently find out
23 had actually happened?

24 A. It's the same people that were there
25 originally that got the job. But there's two

1 positions, a man and a wife position. And one of the
2 spouses held the permanent position and the other one
3 held a part-time position in the Park, and all they
4 merely wanted to do was to change the permanent or the
5 full-time position over to the other one. In order to
6 do that, they had to go through this false pretence of
7 resigning and making that job available. All they
8 merely wanted to do was change positions.

9 Q. When did you find that out?

10 A. I found that out subsequently, during
11 that winter and the following summer.

12 Q. So that would be subsequently to your
13 applying for the job?

14 A. That's right.

15 Q. Could you look again at that map
16 showing the traplines. That's 1876. And it shows the
17 northwest area of your reserve -- of your trapline as
18 having been cut in recent years. Does that sound
19 correct?

20 A. Is that what?

21 Q. Does that sound correct? It was the
22 northwest area?

23 A. That's correct.

24 Q. But it shows little or no cutting in
25 the -- as one moves in the southeast direction?

1 A. Hm-hmm.

2 Q. Where was the damage if it was only
3 part of the line that was cut over?

4 A. Okay. Here again is -- I would view
5 the facts again being used for a specific purpose.

6 The part of my trapping ground that is
7 cut over was where the timber was in the first place
8 and what is left are hardwood, predominantly hardwood
9 areas, and that's why there's such a discrepancy in
10 that.

11 What they have done to my trapping ground
12 is driven away the long-furred animals that have been
13 in demand in recent years. And they just don't, simply
14 don't go into hardwood areas. And also a lot of the
15 section that isn't coloured over here are swamps and
16 beaver ponds. They had no timber or anything to begin
17 with. They still don't.

18 MADAM CHAIR: Excuse me. Chief Jourdain,
19 when were the softwoods cut on that part of your
20 trapline?

21 THE WITNESS: They have never been. I am
22 saying that's all there is left now in that territory,
23 predominantly poplar.

24 MADAM CHAIR: Your trapline itself has
25 never been cut over, but it has always had mostly

1 poplar or swamp or whatever on it. Were you relying on
2 the softwood surrounding your trapline?

3 THE WITNESS: No, what I am saying is --
4 I think his question is there is only a certain
5 percentage of my ground that was cut over and why
6 should it bother the trapping; is that what your
7 question is?

8 MR. COLBORNE: Yes.

9 THE WITNESS: And what I answered is that
10 they have cut all the timber area as the long-furred
11 animals only go into where there is the fir.

12 MR. FREIDIN: Madam Chairman, I think --

13 THE WITNESS: F-i-r, fir.

14 MADAM CHAIR: And so are you saying that
15 the exact boundaries within your trapline, that area
16 was or was not cut? The area around your trapline has
17 been cut, but your trapline itself --

18 THE WITNESS: The area around my trap
19 ground has been cut, yes. It's clear.

20 MR. FREIDIN: Madam Chair, I think the
21 problem here is that he is misunderstanding your use of
22 the word "softwoods". I think he is equating that with
23 poplar and you are -- I think you are talking about
24 conifer.

25 MADAM CHAIR: What I just want to know is

1 on Chief Jourdain's trapline, whether areas of that
2 trapline have been logged.

3 Loggers have gone in and cut down trees
4 on your trapline?

5 THE WITNESS: Yes, that would be the
6 conifers.

7 MADAM CHAIR: The conifers? In recent
8 years or did this take place some time ago?

9 THE WITNESS: It took place over a period
10 of years. I don't know the exact years but it has been
11 over the last ten years, I believe, that's been
12 happening.

13 MADAM CHAIR: Thank you.

14 THE WITNESS: And as the area became cut
15 over, the long-furred animals disappeared or moved off
16 somewhere else. The only kind of animals that hang
17 around now are the deer and those that don't -- like
18 the marten and the fisher don't hang around. In fact,
19 I was out last winter and I saw a fisher track there
20 for the first time since the area was cut over.

21 MR. COLBORNE: Q. What is the state of
22 your trails and so on on that trapline following
23 cutting?

24 A. There are no trails anymore. They
25 have been pushed over and covered over, and even the

1 areas that are cut over you can't just simply start
2 moving the grass unless you have a caterpillar or you
3 got in there with a grub hoe (phoen.) and chopped your
4 way through the stumps and timber that's left over.

5 But although it looks clear-cut, there's
6 a lot of stuff that was left on the ground. They never
7 did replace any of my trapping roads anyway.

8 Q. Exhibit 1875 was supposedly the
9 production figures from various traplines in the Lac La
10 Croix area, including your own. I want to show you
11 what has been produced by MNR concerning your
12 production from your trapline.

13 I realize you haven't had an opportunity
14 to review this for more than a minute or two, but does
15 this seem to accurately state the numbers of furs which
16 you recorded?

17 A. On my ground, yes. Because there was
18 nothing there to trap and I never did go there.

19 Q. It shows production falling
20 practically down to zero following the '86/87 year.
21 Does that year have any significance? Is that a year
22 when any particular thing happened?

23 A. That trapping ground, it's hard
24 for -- to understand. My family has been on that
25 trapping ground for, I am the fourth generation trapper

1 on AT18 and over -- my great grandfather is buried on
2 AT18.

3 And when I began seeing the devastation
4 that was being done on AT18, I felt personally hurt by
5 what was going on. And I felt my presence there was
6 only adding to the destruction of that area by having
7 to fulfil quotas where there was nothing left or it had
8 been driven way.

9 From that point onward, I have trapped
10 other people's territories. In fact, last year was the
11 first year I haven't trapped ever since I was a little
12 boy. I have trapped for other people. In fact, I was
13 just one of three trappers that carried on trapping all
14 these years. I have trapped, but I have trapped for
15 other people to fill their quotas in other areas.

16 MR. COLBORNE: Thank you very much, Steve
17 Jourdain, Chief Jourdain. Those are my questions.
18 There may be other questions.

19 MADAM CHAIR: Thank you, Mr. Colborne.

20 Mr. Cassidy, do you have any questions
21 for Chief Jourdain?

22 MR. CASSIDY: I don't, but my colleague
23 Mr. Wadden may have one or two.

24 MADAM CHAIR: Please go ahead.

25 THE WITNESS: I am hard of hearing too,

1 so you have to scream.

2 CROSS-EXAMINATION BY MR. WADDEN:

3 Q. Chief Jourdain, you referred in your
4 evidence to an agreement that your Band now has with
5 the Ontario Government to negotiate all of Quetico
6 Park; is that right? Could you explain to --

7 A. No, it's not all of Quetico Park.
8 It's a portion of Quetico Park, a temporary settlement
9 that we arrived at for this summer. We're going to be
10 heading into a year-long negotiation with MNR over the
11 whole of Quetico Park and our rights to hunt and trap
12 there.

13 Q. And are the purposes of this
14 negotiation to give you more rights of hunting and
15 trapping? Or are they also to give you more access to
16 the Park, besides that?

17 A. We're going to examine the public
18 needs in Quetico Park and we're also going to examine
19 our needs. And I think we should be mature enough and
20 smart enough to be able to have a compromise somewhere;
21 otherwise, it's going to be a legal matter and in this
22 case nobody is going to win. But we're prepared to
23 negotiate if MNR is prepared to negotiate.

24 Q. You referred to the statement by Mr.
25 Wildman on June 3rd that gave your Band access to some

1 lakes in Quetico Park. Do you agree that this access
2 gives your Band greater economic opportunities in the
3 Park?

4 A. Just for this summer, as I said. The
5 greater economic opportunity will be what we asked for
6 in the first place. But what we got is a compromise of
7 what we wanted.

8 Q. So you would agree that it is a start
9 to giving you greater economic opportunities?

10 A. It is a start towards that.

11 Q. And you would of course prefer that
12 the government go further and give you more economic
13 opportunities in the Park by giving you greater access?

14 A. I would normally get angry at this
15 point, but I won't. But it's true. We believe we have
16 been deprived of an economic resource all these years.
17 And that's part of the thing that we're going to have
18 to confront -- that Ontario will have to confront: is
19 that deprivation that we've had over the years, the
20 illegal elimination of our people from Quetico.

21 I know if I prevented you from doing your
22 work, you would sure as hell sue me; and that's the way
23 we view it.

24 MR. WADDEN: That's fine.

25 Thank you very much, Chief.

1 MADAM CHAIR: Ms. Gillespie?

2 MS. GILLESPIE: Yes.

3 CROSS-EXAMINATION BY MS. GILLESPIE:

4 Q. I just have a couple of questions,
5 Chief Jourdain, about the trapline that you described
6 to us. You mentioned that there have been four
7 generations of trappers on your family's trapline.
8 Could you give us an idea of how much work was involved
9 in establishing that trapline over the years?

10 A. In the setting up of the traps and
11 all that?

12 Q. Yes.

13 A. It takes you about two weeks out of
14 every year to set out your lines. But in the past,
15 before the cutting was there, we've had -- our trails
16 were there all the while, from time immemorial, the
17 traditional ways of travelling.

18 Q. How much work is there involved in
19 the creation of the actual trails?

20 A. As I said, your concept of trails and
21 ours are different. We don't make highways in our
22 time. We had trails. We went where nature allowed us
23 to go. We didn't change nature to make a trail. We
24 just went where... I don't know how to explain that.

25 Q. It would have been over a number of

1 generations that these trails would be established--

2 A. Oh, yes.

3 Q. --on your trapline?

4 A. Yeah. And when they were made I
5 wouldn't know that. These are just the way things were
6 done.

7 Q. So you inherited a system of trails
8 and portages that make up your trapline?

9 A. See, my grandmother's grandfather had
10 that trapping ground, and they would have started it
11 long before then even. It is as far back as my memory
12 goes anyway.

13 Q. When you describe the effect on the
14 trapline cut-over, there was a lot of debris left,
15 would you say that it was really impossible to find any
16 of those trails or make a way through your trapline
17 where the cut-overs had taken place?

18 A. We know roughly where our trails were
19 but you need a caterpillar to push stuff out of the way
20 now.

21 Q. So it would be a very expensive
22 process to establish those trails?

23 A. Yes, it is an expensive process,
24 yeah.

25 Q. And you felt you needed heavy

1 machinery to do that?

2 A. And the other thing is we're not
3 allowed to stay there the year-round. We have to be
4 out of there at a specific period of time and we can't
5 go back there until the trapping season starts again.

6 Q. You also mentioned that more than --
7 four generations worked on this trapline. I take it
8 there's a community and cultural value to these
9 traplines that is greater than, more than the economic
10 value of the fur?

11 A. It's a cultural thing for me. In
12 fact, I have to explain to you that I have been a
13 trapper all my life and that's how I wanted to end my
14 life: as a trapper. I don't get any pension or
15 anything for being a chief in my community. I get \$600
16 a month. But when I am not wanted anymore by my
17 community as a chief, I have nothing.

18 But I have always, all my lifetime I had
19 a vision of being trapping after my working days are
20 over with. And now that's all gone. And I have had to
21 go -- and realizing this, my whole future is wiped out.
22 My retirement is gone. I have nothing left. I can't
23 be trained for anything else. And nobody is going to
24 hire me because I am an old guy. So everything is gone
25 and I think that's insensitive. That hurts. We're no

1 longer talking about other people in the community. I
2 am the Chief and I got treated this way, you know, and
3 everybody else must get treated worse than I am.

4 And so I had to go for therapy. I am not
5 ashamed to say that. Two years ago I had an emotional
6 breakdown because my whole life was gone. And part of
7 my therapy was to go there. My therapist told me to go
8 there anyway and go through the motions, because I
9 don't want to kill nothing, you know, just so I'll
10 live. But he said: "Go there. Take a camera.
11 Re-live those days." And that was part of a therapy,
12 but not necessarily to kill anything. But for me
13 everything is gone and for me it's therapeutic. And I
14 am sure it's that way for everybody in my community.

15 Q. Trapping is a way of life that has
16 more value than simply the dollar value of the fur that
17 you might trap. Would you agree with that?

18 A. One hundred per cent.

19 MS. GILLESPIE: Those are all my
20 questions.

21 MADAM CHAIR: Thank you, Ms. Gillespie.

22 Mr. Freidin.

23 CROSS-EXAMINATION BY MR. FREIDIN:

24 Q. Chief Jourdain, one of the things
25 that I think you said was that it was difficult for you

1 to get across where your trails were after the logging
2 occurred. And I take it that was because there was
3 slash left across the area where your trails went?

4 A. From my perspective there were things
5 done deliberately: to push over trees that shouldn't
6 have been pushed over, past the limits of the cutting
7 area. To even get to the clearing, you need a chain
8 saw and a bulldozer because people with bulldozers went
9 over there and pushed over trees for nothing.

10 And once you are in that clearing, all
11 the trees are left on the ground. You can't cross with
12 a three-wheeler or a snowmobile without having to get
13 down on your knees and dig them out and cut them.

14 Q. So your trails went right through the
15 area where the cut-over occurred?

16 A. Yes, that's right.

17 Q. And as a result of them leaving trees
18 all over the ground, you couldn't get through there
19 anymore?

20 A. That's right.

21 Q. So I take it then that -- I'm just
22 trying to deal with these concerns one at a time.

23 A. Okay.

24 Q. Assuming for the moment that somebody
25 was going to cut an area through which your trail went,

1 that at the very least it would be helpful if in fact
2 an area was cleared so that you could continue to cross
3 that area; is that right?

4 A. There has been no effort done for
5 that but it would be helpful if that was done.

6 Q. That's all I am getting at. I am
7 trying to find ways that you think that some of these
8 problems could be overcome. So that's one way.

9 Would you be able to tell people -- or
10 based on your knowledge, would trappers be able to tell
11 where that path should go?

12 A. Oh, yes.

13 Q. Okay. The line that you were
14 interested in, Elizabeth Lessard's line, is actually
15 the trapline to the west of yours?

16 A. That's right.

17 Q. Can you describe for me what the
18 forest cover is like? If you were going to compare the
19 kinds of trees, the amount of water, or the amount of
20 swamp on your trapline to that of Elizabeth Lessard's,
21 how would they compare?

22 A. They are about the same.

23 Q. If we look at Exhibit 1875. It was a
24 document which was given to you by Mr. Colborne.
25 Exhibit 1875 was the document there which indicated

1 your returns.

2 Attached to that as the last page, I
3 believe, of that particular document, Chief Jourdain,
4 there is a document entitled "Summary of Area
5 Harvested. Selected Traplines from the Flanders Crown
6 Management Unit". Do you have that?

7 A. Yeah.

8 Q. And let's assume for the moment --
9 well, it says that the area of your trapline is 9,940
10 hectares and that the trapline of Elizabeth Lessard is
11 somewhat less at 7,950 hectares. Now, that's the
12 information that the Ministry of Natural Resources gave
13 to me.

14 Are you able to confirm, firstly, that
15 the Lessard line is a little bit smaller than yours in
16 terms of total area?

17 A. I have never made it my business to
18 go measure that. I don't know what you are getting at,
19 but get to the point.

20 Q. The point is, Chief Jourdain, that if
21 these figures are correct, Lessard has got a smaller
22 trapline than yours; she has had a little bit more cut
23 over on it than yours; it is the same type of trapline
24 in terms of the forest cover, et cetera, as you've
25 indicated. You have trapped in effect -- you have no

1 returns for the years '87 through '90.

2 And if we look at Lessard's returns, she
3 in fact is harvesting - and I just focussed in on
4 marten because that's the species that everyone speaks
5 of when we're talking about mature forest, or forest
6 where there's canopy closure - she has the return of
7 2920 and in the last year 51 marten.

8 And I am just wondering, it seemed to me
9 that the reason -- that to me indicated that the reason
10 that your returns were low was not so much that the
11 animals weren't there, but it was a matter based on
12 what I heard this morning: is that you were personally
13 hurt and upset with the fact that there was any cutting
14 on your trapline at all. And that's really what I'm
15 getting at.

16 I'm not discounting, I'm not trying to
17 discount your concern and how you feel about trapping
18 or logging on your limits. All I am driving at is what
19 effect, if any, was there really on the populations
20 which were there and available for trapping. And it
21 seems to me when I look at these figures that the
22 animals were there and it was your decision not to trap
23 which results in your low returns, not that the animals
24 weren't there.

25 A. There's some things that I have to

1 say that's going to incriminate myself. I am a
2 trapper. I know the insides of this game. I know who
3 is trapping there. I know where the animals are coming
4 from.

5 And you're questioning my integrity by
6 saying -- by trying to contradict that there are
7 animals in my trapping ground. There aren't any, sir.
8 I go there. And a lot of those on Lessard's ground are
9 from my trapping ground, sir, and other people's
10 trapping grounds. It's just the way it's done.

11 And the other thing that I consider is
12 not being fair is that MNR gives privileges to my
13 neighbours to live there the year-round that I don't
14 have a privilege to do. And so they start earlier, as
15 soon as the trapping season, whereas I can't reach my
16 territory until around January when the lakes are
17 frozen over. And these people live on the road. I
18 just don't have that privilege. It's not the same.

19 Q. That's fine. And that's why I am
20 asking you the questions.

21 You are saying that Lessard lives on her
22 trapline?

23 A. Yes.

24 Q. And is therefore able to be out --

25 A. So does the helper.

1 Q. And is able therefore to trap over
2 more months of the year than you are able to trap on
3 your traplines--

4 A. Yeah, that's correct.

5 Q. --because of access?

6 Is there a road you say that goes into
7 her area?

8 A. Pardon?

9 Q. There's a road in her area? Or she
10 just happens to live -- does she have road access?

11 A. She lives right on the -- her
12 trapping ground is right there. She lives right there.
13 That's her home.

14 If I lived there too I would do that, but
15 I can't access mine because I have to cross the
16 Thompson lake and that doesn't freeze over till late
17 December.

18 Q. How many months of the year are you
19 able to be on your trapline?

20 A. From roughly the middle of December
21 to February. For long-furred animals, anyway.

22 Q. Okay. Let's deal with the issue
23 about the Game and Fish Hearing Board.

24 As I understand it, you have two letters:
25 one, that was a letter which you say started this whole

1 issue in relation to the Lessard line; and another
2 document, a second document. Does that second document
3 that you refer to, is that the document which has
4 contained within it what you refer to as the original
5 reason why your trapline was turned down?

6 A. That's the one, yes. The one that
7 says that I don't have trapping experience. And I
8 believe there was another thing that was very, very
9 wrong is that I wasn't a member of a trapping
10 association.

11 Q. All right. Well, then, I will want
12 you -- you said you would give that to Mr. Colborne. I
13 would like to see that. I can't ask you about that
14 without seeing it, but that is the basis, I guess --
15 that's the basis of your statement in your witness
16 statement, where you set out that those were the
17 reasons?

18 A. Yeah.

19 Q. So then if we look at Exhibit 1877,
20 which is that bundle of correspondence. There's a
21 letter in there of October 9th. If you look -- when
22 you have that, tell me when you have that letter, Chief
23 Jourdain, please. October 9, 1990.

24 Do you have that letter? Do you have the
25 letter there in front of you?

1 Maybe you can help him, Don, find that
2 letter.

3 A. Hm-hmm, I have it.

4 Q. Now this is a letter which was
5 written to you on October 9, 1990, and was written by
6 the acting district manager in Atikokan district, R.G.
7 McCoombe (phoen.).

8 In this letter, in the second paragraph,
9 there's reference to the decision as to who would get
10 the trapline being made based on a point system. And
11 if we go down about eight lines in that second
12 paragraph, it says that:

13 Your application scored equal or
14 higher points in all categories, with the
15 exception of the helper criteria. The
16 points awarded to the other candidate for
17 being a licenced helper on the trapline
18 in question resulted in a higher overall
19 score for this applicant. We trust that
20 you will accept that it is appropriate to
21 give consideration or additional points
22 to a helper on a specific trapline as
23 undoubtedly the individual would have
24 contributed significantly to the
25 improvements on this trapline.

1 Now, am I correct? Before you got to the
2 Game and Fish Hearing Board then, there was a decision
3 made based on a point system that the helper on
4 Elizabeth Lessard's line would get the licence and not
5 you?

6 A. That's what I understand now.

7 Q. Right.

8 A. There's a letter to that somewhere in
9 effect too, signed by Elizabeth Lessard, that I saw.

10 Q. This is a letter that indicated what?

11 A. That indicated that the trapping
12 ground is now no longer available because I appealed
13 it, I imagine, and because that this guy that she
14 wanted in the first place didn't get it.

15 Q. We're going to get to that. I just
16 want to clarify what it is that's upset you about this
17 whole process.

18 But at this point in time, the decision
19 was made to give it to the helper. If the helper had
20 taken the line -- all right, if you had gone to the
21 Game and Fish Hearing Board and had been unsuccessful
22 and the helper had taken over the line, would you be as
23 upset about what happened as you are today?

24 A. I would be -- I have no qualms about
25 the guy that got it. I have no argument with him.

1 It's just I need to access on a fair and equal basis.

2 Q. All right. But, see, as I understand
3 it, what happened was that when you got to the Game and
4 Fish Hearing Board, Elizabeth Lessard somehow changed
5 her mind and didn't want to make the line available to
6 anybody; is that right?

7 A. No. It's only to this guy.

8 Q. Only to this --

9 A. I was there. That's the letter I
10 have, I've got anyway. Only to the helper.

11 Q. If she was only willing to give it to
12 the helper, but the decision was actually made by the
13 Ministry based on the point system, is there something
14 wrong with that?

15 A. I have no chance to access other
16 people's ground, especially when they publicly
17 advertise a trapping ground. That's false. Then I
18 wouldn't have applied for it if Natural Resources were
19 up front in their advertising, stating that this thing
20 is, publicly, that this trapping ground is now
21 available and it's open for applications. But there
22 was nothing said there about a point system, that the
23 ground is available only to the helper. I wouldn't
24 have applied. And I have no qualms about the guy
25 that's trapping there.

1 Q. All right. So the thing which
2 troubles you about it is that you didn't realize when
3 you applied for the licence that somebody else might
4 have one thing to their advantage over you, and that is
5 that they were the helper?

6 A. I know there was a deal made already.
7 They should have been up front with it, you know. I
8 applied for this ground in good faith.

9 Q. Okay. I think I understand now.

10 A. The same thing that happened with the
11 job in Quetico. That was advertised too. And there's
12 something not right about this. If there's a job
13 available, it should be made available. You know,
14 don't play these games. If you want to switch people
15 around, switch people around but don't be fooling
16 around with us guys anyway.

17 Q. Now, you were one of, I understand,
18 seven applicants for that job?

19 A. I don't know. That's all secret
20 ministerial information. I can't access that.

21 Q. So you are not aware of how many
22 people, perhaps other than yourself and the original
23 person --

24 A. I know I was the only one and I still
25 came out number two, you know.

1 MR. FREIDIN: Well, you think you came
2 out number two of two, but if there was more than two
3 applicants you came second out of more than two.

4 Those are my questions.

5 MADAM CHAIR: Thank you, Mr. Freidin.

6 Mr. Colborne?

7 RE-DIRECT EXAMINATION BY MR. COLBORNE:

8 Q. Mr. Freidin asked you about the
9 numbers on Exhibit 1875, that's the trapline returns.
10 Am I correct that the helper on the line that you
11 applied for and didn't get is William Wilson, one of
12 the persons in here?

13 A. That's correct.

14 Q. And would William Wilson's trapline
15 be shown on Exhibit 1876?

16 A. Yes, it's this whole territory up
17 here, I believe. This whole territory over here and he
18 was also trapping this territory. (Indicating)

19 So the ground that I got is actually only
20 one. He's got three trapping grounds tied up, this
21 guy.

22 Q. Okay. So, you've just said that the
23 Wilson trapline is shown on there and it's a large one.
24 The Lessard, which you applied for and didn't get, is
25 the one where Wilson is the helper?

1 A. That's correct.

2 Q. And he is now trapping it?

3 A. I don't know if he is trapping it. I
4 think he is.

5 Q. Anyway, the only question I want to
6 get to by way of re-examination is this: What would
7 there be to stop Mr. Wilson from recording fur caught
8 on his big trapline against the small one, Lessard, if
9 he was trapping on both of them?

10 MR. FREIDIN: Well --

11 THE WITNESS: This is a very common
12 practice. Now don't -- that's what's done.

13 MR. COLBORNE: Q. So it could be that
14 all this data at the end is erroneous if people are
15 recording what is trapped on one trapline against
16 another one --

17 MR. FREIDIN: I just want to interrupt --

18 THE WITNESS: That's what I was alluding
19 to --

20 MR. FREIDIN: I just want to interrupt.
21 Mr. Colborne better be very careful about impugning and
22 innuendo about a specific individual, and he knows
23 about this provision of the Statutory Powers Procedure
24 Act as well as I do.

25 MR. COLBORNE: Yes. And I don't need to

1 be told by Mr. Freidin about that. I know what my
2 duties and obligations are.

3 This witness just said it's a very common
4 practice for returns to be transferred from one line to
5 another. That's his evidence as an experienced
6 trapper.

7 MR. FREIDIN: Well, there's no suggestion
8 that that occurred on this job; otherwise, you would
9 have followed the provisions of the SPPA and given
10 proper notice.

11 MR. COLBORNE: I specifically request
12 some clarification of that. Mr. Freidin can make all
13 the speeches he wants about my duties, but he better
14 tell me what he is talking about now.

15 MR. FREIDIN: It's my understanding that
16 if you are going to suggest that someone somehow has
17 breached a regulation or a law and you are going to
18 raise that at a hearing, that you have a duty to
19 provide them with notice of that. That's my
20 understanding of that.

21 MR. COLBORNE: Well, there are a lot of
22 duties that seem to be ignored here, like bringing in
23 "cooked" packages of documents.

24 MADAM CHAIR: Mr. Freidin, will you be
25 bringing reply evidence on this matter?

1 MR. FREIDIN: I might. I think I will
2 file something but I'm not sure how much.

3 MR. COLBORNE: That's all the
4 re-examination.

5 MADAM CHAIR: Thank you, Mr. Colborne.

6 Chief Jourdain, thank you very much for
7 coming this morning.

8 THE WITNESS: I would like to make one
9 final statement, if I might.

10 You know, I'm not a legal man and I came
11 here with an eagle feather to tell the truth. That's
12 what I would like to say. And I don't appreciate MNR
13 again trying to be experts on what's trapped -- how we
14 conduct our business as trappers.

15 I have been a trapper all my life and I
16 know the insides of trapping. And I know what is done
17 to -- for figures. I don't place any value on,
18 whatsoever, on these MNR records because I am part of
19 that. I have been. And I know how it's done when we
20 can fill somebody else's quota.

21 And I don't know... That has to be dealt
22 with anyway if the truth is going to come out of this,
23 what's happening to us as trappers and as Indian
24 people. Now, they should do away with some of the
25 legal procedures, you know, and get at the truth.

1 That's what my participation here was intended to be.
2 I'm no lawyer. I'm a trapper. Thank you.

3 MADAM CHAIR: Thank you, Chief Jourdain.

4 It might interest you to know that Mr.
5 Martel and I aren't lawyers either and we try to keep
6 these procedures as non-legalistic as we possibly can.

7 And our interest in the evidence you have
8 given us is about forestry, is about logging, and how
9 all of that affects lots of interests, including
10 trapping. And certainly we've heard a great deal --

11 THE WITNESS: It hasn't represented my
12 interests, I am telling you now. I am a hurt person.

13 MADAM CHAIR: I think that what you've
14 told the Board comes through very, very clearly with
15 respect to your experience. And we thank you for
16 coming today.

17 MR. CASSIDY: Just before Chief Jourdain
18 leaves -- this is not a question --

19 MADAM CHAIR: Mr. Cassidy.

20 MR. CASSIDY: Just to clarify in my mind.
21 Were Chief Jourdain's traplines, when we were talking
22 about them, at Flanders Crown management unit; is that
23 where they are?

24 MADAM CHAIR: That's what it says in
25 Exhibit 1875.

1 MR. CASSIDY: Fine. Thank you. I don't
2 have it in front of me; that's why I'm asking.

3 MADAM CHAIR: Thank you, Chief Jourdain.

4 THE WITNESS: You are welcome.

5 ---Witness withdraws.

6 MADAM CHAIR: Mr. Colborne, do you want
7 to take a break or is your next witness present?

8 MR. COLBORNE: My next witness is here.
9 I rather hope that he will be shorter than Chief
10 Jourdain. I didn't know that Chief Jourdain was going
11 to take that long. So, I can either proceed directly
12 with my next witness or take a break.

13 MADAM CHAIR: It's your call, Mr.
14 Colborne. We're prepared to take our morning break now
15 or continue on.

16 MR. COLBORNE: Well, let's take the
17 morning break in that case.

18 ---Recess at 10:15 a.m.

19 ---On resuming at 10:38 a.m.

20 MADAM CHAIR: Mr. Colborne.

21 MR. COLBORNE: My next witness is Chief
22 Arnold Gardner. Chief Gardner.

23 Chief Gardner advises me that he has
24 brought his feather, I believe an eagle feather, just
25 as Chief Jourdain did. And perhaps he could tell us

1 how he proposes to affirm his intention to give true
2 and complete evidence.

3 CHIEF GARDNER: (Chief Gardner speaks in
4 his native language.)

5 ARNOLD GARDNER; Affirmed.

6 THE WITNESS: For the benefit of the
7 Board and the Assessment Board here, I want to relate
8 to you what I have done this morning. And it's
9 traditional. It's things that carry me personally and
10 the kind of things that my people do.

11 There is only one God. There's only one
12 Creator. It's the same person. I understand that I
13 was asked to swear on a bible. I don't have a problem
14 with that, but it's basically the same thing. And the
15 philosophy we have is that the great spirit is
16 everything: the trees, the animals, the sun, and you
17 as people, and myself as a person.

18 What I had asked for this morning is to
19 give me guidance so that I may be heard on the hurts
20 that we have, the things that bother my people, things
21 that bother me personally to try and to relate to you,
22 to have an open mind, to listen, and also for you to
23 ask me questions that I can answer you so that you
24 understand. When I say that we have the same person
25 that we look at for guidance, I think it's how we

1 express to him that's a little different.

2 And in my opening remarks, some of the
3 things that's very difficult for me to come here on
4 because we're always talking about resources. And it's
5 with this in mind that I have to acknowledge the
6 Creator, that he gave myself, my children, my people,
7 the resources to live and shelter ourselves in this
8 country, Great Turtle Island. It's very difficult,
9 many times, to relay that message on to people.
10 There's always complications.

11 MADAM CHAIR: Thank you very much, Chief
12 Gardner.

13 Mr. Colborne.

14 DIRECT EXAMINATION BY MR. COLBORNE:

15 Q. Chief Gardner, to your right there is
16 a photo mosaic of the Treaty #3 territory. Would you
17 show us where the Eagle Lake Reserve is located and
18 describe it in terms of any surrounding features which
19 are important to the Eagle Lake Band?

20 A. The Eagle Lake Band is in this area
21 here. (Indicating) We have a lake. We're on the
22 shores of Eagle Lake. The lake is 90 miles long, 15
23 miles wide. We're also 12 miles outside of Dryden,
24 southwest, where they have a newly recently renovated
25 paper mill.

1 In my opinion, the renovations happened
2 because of the recent, recent situation in regards to
3 White Dog and Grassy Narrows Reserves. That's why they
4 had a great big mill expansion and it was in the form
5 of a grant from the governments that the Indian people,
6 in my opinion, never participated or benefitted from it
7 to this day.

8 This is a logging area. (Indicating) On
9 my own particular reserve is a community of
10 approximately 350 Band members; on-reserve population
11 282. The recent federal government passing of Bill
12 C-31 has really affected my community where it's almost
13 growing at a 35 per cent rate. And these are things
14 that are not actually put on paper. It gives me great
15 pleasure to relay this information to you. Really, I
16 didn't think it would have that much of a bearing but
17 it certainly has.

18 We have our traditional areas in terms of
19 wild rice, the block (phoen.) system. Our community is
20 virtually not a trapping community anymore. It was at
21 one time.

22 I also want to let the Board know that I
23 am a forester by trade and I understand when forestry
24 is talked about.

25 Hunting is basically confined to our own

1 reserve boundaries in recent years. We have to start
2 exercising our rights as it pertains to the treaty
3 because of our closeness to an urban centre and a
4 development that happens in regards to the access of
5 resources, tourism, forestry and so forth.

6 Q. What is the main economic base for
7 your community, the main source of income for your
8 members?

9 A. Well, first and foremost -- and for
10 the benefit of the people here, I have to say I don't
11 feel comfortable in talking into a microphone so if you
12 can't hear me, then by all means let me know. I do
13 have good lungs.

14 Our main source is, right now it's the
15 Band government, the staff within our own Band affairs.
16 And our next source is we are a traditional logging
17 community. Our welfare system -- through the auspices
18 of the leadership of the past, we do not believe in
19 welfare.

20 Tourism in the past was a good source of
21 income; now it's almost nil. Trapping was a source of
22 income; it's now absolutely nil, none whatsoever. Wild
23 rice is a form of economics for our community; it's
24 slowly dying. Minerals, mining, absolutely nil. Very
25 little employment in any ministry, certainly not MNR.

1 Q. Do you have future -- I'm sorry, were
2 you completed with that answer?

3 A. Yes, I am.

4 Q. Do you have future economic plans or
5 anything that you see coming up in the next few years
6 that will improve the situation?

7 A. Well, right now what we're doing is
8 we're negotiating with Great Lakes Paper and MNR,
9 keeping in mind that we are a proud people and we want
10 to earn our own way. We want our people to feel good
11 and that includes myself.

12 I too, when I am not wanted as Chief, I
13 have to go, to resort to some of the skills that I do
14 have. I am a former logger. I am a logging
15 entrepreneur, and common sense tells me that with an
16 annual quota of 5500 cords, that we had to fight for
17 with MNR and Great Lakes, for a community of 282 people
18 is not enough to buy a skidder. This is 1991. This is
19 not your early 1940s or the early 1900s.

20 Mechanization and the age of the computer
21 world, the advancement that we're in today, we also
22 want to move in that direction. But we cannot do it
23 with the kind of quotas that are placed on our people.
24 We are looking at negotiating a larger quota so that my
25 people can also rightfully get into the forestry

1 business, especially in logging, so that they are
2 competitive.

3 Also in the wild rice industry. We are a
4 community that deals a lot with mechanization as
5 opposed to tradition. Each and every community,
6 especially in our community, we deal with it as a
7 people.

8 We are looking at -- now this is from the
9 loggers of Eagle Lake and the traditionalists from
10 Eagle Lake in term of economic development. We know
11 that there are grants available outside, within the
12 provincial government and also the federal government,
13 that we can apply for in terms of loans to buy
14 equipment. But it doesn't make sense with the
15 opportunities that are available to go and buy a
16 \$100,000 skidder when you have to divide 5500 cords
17 amongst 30 loggers.

18 Now the way that I feel, and the
19 expression that I get from the loggers -- and I have
20 attended a lot of meetings locally with the MNR
21 officials and the Great Lakes' officials for years. We
22 have eyes, we have ears and we watch. That one
23 contractor alone in Dryden can get 15,000 cords a year.
24 We know the games that are being played. We know the
25 discussions that go on but we are not a group of people

1 that don't know anything.

2 We want to be heard. For the first time
3 in history, right here in Fort Frances at the
4 Couchiching Reserve on May 3, my government met with
5 the Ontario Government for the first time, and it is a
6 beginning for our Band because of the rights issue.

7 But I think people deserve, all people,
8 including native people, that they deserve a right to
9 earn their living off the resources. The inequities
10 that happen, they have to stop. And I am a man on
11 behalf of my people. Some people tell me in my
12 community, "Don't say anything to the local people.
13 They are going to dislike the Indians at Eagle Lake.
14 You are going to create problems, animosities amongst
15 people". But yet we're suffering. Somebody has to
16 address it.

17 When I mentioned earlier that people --
18 when I say an open mind, I do not believe that -- with
19 the local people in all ministries that are managers, I
20 have come to the conclusion that I think we're dealing
21 with a bunch of prejudiced people. When I met with the
22 Cabinet and the Premier and then I still have to deal
23 with these local civil servants, that has to change,
24 their attitudes have to change.

25 My community, the qualifications and the

1 skills that people have in my community are equal to
2 any community in this country. But they do not look
3 our way. I really believe that they look at the colour
4 of our skin and the stereotyping that has been
5 instilled in their minds.

6 I mention in my remarks on our community,
7 we did not push for any jobs when the Great Lakes Paper
8 Mill was being expanded. We did not benefit. Grassy
9 Narrows and White Dog Band, thanks to them, and the
10 people in the Dryden area should thank the two
11 communities because of the pollution that was happening
12 on the Wabigoon River system.

13 We did not want to be part. But we felt
14 as a brother and a sister to them, to them two
15 communities, that they should get the jobs. And we
16 still hold our head up high for that. And these are
17 the kind of things that have to be talked about if
18 relationships are going to get better. And that's the
19 context that I met with the Government of Ontario.

20 Q. Chief Gardner, did you have an
21 opportunity, just before we came in here, to look at
22 the written material that was filed on behalf of Eagle
23 Lake in the witness statement?

24 A. Yes, I did.

25 Q. That's pages 7 and 8. Are you the

1 person who provided the information which is in there?

2 A. Yes, I did.

3 Q. And when you read it over again
4 today, did you notice any serious errors or omissions
5 or anything that you would want to clarify?

6 A. Let me put it to you this way. That
7 when given an opportunity, certainly as a leader and as
8 a spokesman, any time that you are given an
9 opportunity, you get excited and you miss things and
10 you misinterpret it.

11 But I know how the people feel at home
12 when it comes to logging. There's a lot of issues, a
13 lot of concerns that especially the loggers have. We
14 have our own logging group.

15 Q. Excuse me. I think somebody may not
16 have heard that. Was it "logging group"?

17 A. Yeah, we have a logging group.

18 And I want to explain that certainly to
19 the, on behalf of the Board, to try and come to grips
20 with what I am talking about.

21 I work with my people. -I do not
22 interfere in terms of politics because I know they are
23 the government. It's not me. I am their spokesman.

24 The pressures, these are the kinds of
25 games that I do not appreciate. I believe, I sincerely

1 believe that MNR have pushed my people into buying a
2 licence at a minimal fee of a thousand dollars a year
3 to cut wood off-reserve under the Eagle Lake logging --
4 they don't want to use the Eagle Lake Band because when
5 you look -- and then it goes on further. They only
6 want to issue it to one individual because they don't
7 want to show that it's a -- Eagle Lake Band is a
8 representative of 282 on-reserve people. What it shows
9 is 5500 cords are allotted to one individual and then
10 he hires these Indians to cut on a licence.

11 Then when you look at the town of Dryden
12 or any other community, they have got 15,000 cords for
13 one individual. There's some inequality there. I have
14 a very, very deep concern with that, a very, very deep
15 concern.

16 Q. I would like to ask you about whether
17 there's harvestable wood available still on your
18 reserve?

19 A. Our reserve has been cut over twice.
20 Again, as I told you, that we are a logging community.
21 You know, as a community and certainly as a forester, I
22 look at a tree and I look at this paper in front of me.
23 There's a lot of processes that happen.

24 And I think we are getting involved in
25 terms of our own community of regenerating within the

1 last few years within our own community. And because
2 of the Indian Forestry Development Program, we are
3 looking at options of also getting involved on Crown
4 lands outside of the reserve boundaries, taking
5 contracts for silviculture and scarifying the ground.
6 We have to be assured of these contracts before we
7 enter into it in terms of business. That's what we're
8 looking at.

9 Q. Do I understand you to say that
10 on-reserve there just isn't any or very much timber
11 that you can harvest?

12 A. There is timber left, mostly balsam
13 and poplar. We consider it mostly salvage timber
14 because you have got to remember within the last five
15 years, I think that the poplar has become a
16 merchantable timber because of the new technology.
17 They have developed a paper where they combine poplar
18 and the jack pine and the conifer species to develop a
19 fine quality paper and it's cheaper paper for the
20 consumer to buy. We suffer because of that. We had
21 all kinds of poplar. And my Band violated certain acts
22 within our own Indian land, certainly timber acts also.

23 See again, you can't deprive people of
24 making money, making a living because when they went
25 back and logged this area, their own, the regen never

1 did. And when you clear-cut a lot of areas, if you do
2 not do any planting there, the main species that's
3 going to come up will be basically poplar. This is why
4 there's a lot of poplar in our community and that's
5 been cut out. Our reserve is not large, our people are
6 loggers. When the opportunity is there, they take it.
7 They log it. Our quota is met no problem, every year.
8 In fact, our people are laid off for half the year and
9 they do other things.

10 Q. What about the forest within
11 commuting distance of the reserve? Is there still
12 enough wood left to harvest if it were available to the
13 Eagle Lake people?

14 A. Well, I think that the way we try to
15 do things at Eagle Lake is we do have Crown limits that
16 are given to us by MNR and Great Lakes. They do have
17 all the cutting licences tied up. They are allocated.
18 We have to travel about at least an hour and a half to
19 get to our logging areas.

20 But our loggers are very, very
21 intelligent people. In the summer months they live out
22 there. They move away from their families because
23 economics tells you that. Certainly in today's society
24 with the way the recession is going, it makes common
25 sense. And this is what people do. They go and

1 live -- it's getting further and further away.

2 You know, people get to -- this is what I
3 keep telling my people, you know, they travel to Dryden
4 or to any community, they travel along the highway and
5 they see all these nice conifer trees alongside the
6 highway. I tell them "Get off your car and take a
7 little walk. There really is no timber behind that."
8 I call it a screen. There is a lot of cut-out area and
9 it's done by the big corporations. Yes, we have to go
10 a long ways now.

11 Q. If your community wanted to greatly
12 expand its timber operations, what would it take?

13 A. I think what it would take is an
14 agreement between my community, an Order in Council by
15 the Government of Ontario, and increasing our
16 allocation, our quota, and an understanding from Great
17 Lakes Paper that they would buy the wood from our
18 community.

19 And we have that understanding from Great
20 Lakes. If we had more wood they would buy it, but they
21 cannot allocate much more than what they give us now
22 from their own district cutting licence. There are
23 processes that happen because we did some fact finding
24 into how people get 15,000 cords. What they do is they
25 buy it. They buy from other, they call them DCL's,

1 district cutting licences. They buy out.

2 Now, I want to let the Board know here
3 that when Eagle Lake had very, very good merchantable
4 timber, you know, back in the 1800s, we had, according
5 to the elders, straight white pine, completely loaded,
6 and there's remnants still on Eagle Lake. We do not
7 touch these white pines. We had a claim recently that
8 was in our favour where these pines were taken by the
9 local railway company.

10 And in saying that, other things
11 developed over years and we had a very, very
12 merchantable timber that we just recently cut within
13 the last 15, 20 years. And it's the same companies
14 we're dealing with. We really didn't go outside of our
15 community before, to MNR.

16 If we could cut 25,000 cords, Great Lakes
17 would take our wood, no problem. And I think this is
18 the message that they gave us recently again, in my
19 recent meetings with them, that if we had a source of
20 wood, as long as it does not affect their own in terms
21 of the unions and everything, that they cannot give any
22 more to Eagle Lake Band because they have to look after
23 their own men, their own staff. We understand that.
24 But I think there's a process, there's got to be a
25 process where more allocation has got to be given from

1 the Ministry to my Band.

2 Q. You mentioned that there are remnants
3 of good pine timber still on Eagle Lake. Were you
4 referring to on islands?

5 A. On islands and where we have our
6 traditional days, yearly. We have about 100 pine trees
7 standing.

8 Q. And is that what you were referring
9 to when you said that you don't cut these?

10 A. No, we don't cut them.

11 Q. Is there any considerable volume of
12 timber on islands in Eagle Lake?

13 A. Yes, there is.

14 Q. Can you access that?

15 A. Well, in our, as far as my particular
16 Band is concerned, the question of the headland issue
17 is in the courts at the present time. And my Band is
18 the community that's in the courts. We are
19 deliberating very seriously whether we're going to
20 litigate or begin some discussions on some kind of a
21 settlement. It's not me that as a leader that will
22 make the decision; it's going to be the people.

23 Q. And the result of that decision,
24 would it have some effect on how much wood is available
25 on the reserve?

1 A. I think because of the clear-cutting
2 that's happened in our community, there is wood there,
3 but I think what we do is the islands, we would develop
4 it. We're looking at leasing. That's what my Band is
5 looking at right now: leasing.

6 MR. FREIDIN: You are looking at...?

7 MR. COLBORNE: I believe the witness said
8 "leasing".

9 THE WITNESS: But again that's something
10 that's in question. We are people that exercise our
11 rights in a lot of other issues, but we haven't really
12 pressed that issue in regard to the headlands.
13 because, again, as I started, I want the Board to know
14 that we respect the environment.

15 This whole issue of headlands really
16 affects our economics at Eagle Lake, not only with
17 logging but with wild rice, also our hunting and
18 fishing because of all the development that's happened
19 on that lake, not within our boundaries, but it affects
20 our whole system.

21 MR. COLBORNE: Q. Chief Gardner, you've
22 mentioned the headlands issue and you've said it's in
23 court so I don't want you to get into any of the
24 details of it if you don't wish to, but can you
25 describe, in brief terms, just what the issue is? What

1 the question that you require resolution of is?

2 A. Well, what we -- from the highest
3 projection to the highest projection in terms of water
4 boundaries and anything within the boundaries will be
5 reserve waters.

6 Q. So the question has to do with where
7 the boundaries of your reserve are?

8 A. Yes.

9 Q. Like, you know, people, the general
10 public do not know, especially when it comes to my
11 Band, this is my Band only speaking. That doesn't mean
12 that we don't want people to fish in our waters or to
13 go through our waters to get to a point.

14 But what we're concerned about is the
15 acknowledgement that there is some headlands, some
16 islands that we own that we want to develop. Certainly
17 we have a wild rice stand just within - you can't see
18 it on this map - but if we were able to control the
19 water levels and not the Lake of the Woods Control
20 Board controlling our water level, if we were able to
21 control that ourselves, we would have an annual crop in
22 that one little area, just half a mile from our
23 community, of at least 750,000 pounds. That's the kind
24 of development that we talk about.

25 But because of the fluctuating water

1 levels, you can't talk to anybody and guarantee them
2 any kind of a rice resource. You can't do that
3 certainly and these are things that have to be
4 considered.

5 Q. Sir, you've touched on all of the
6 questions that I was going to ask you and so I've now
7 concluded my questions. But if there was anything else
8 you wanted to add that you think the Board should know
9 about, please feel free to continue.

10 A. On behalf of my community, the
11 loggers, I want to let the Board know I have been on
12 the road for 14 days because of the busy schedules and
13 the kind of things that the Indian leadership have been
14 involved in within our own province and certainly
15 nationally. I think you people are aware of the
16 elections that have been going on in our society.

17 And in a phone call - I really don't have
18 any background information - the loggers asked me to
19 bring to the Board one concern they have: that the
20 dues that are charged to our loggers have increased
21 from \$3 a cord to \$8 a cord. They are very concerned
22 with that. And they have also pushed those same dues
23 onto reserve land. That is not acceptable.

24 I haven't had the time to address it.
25 This was confirmed by telephone by my council.

1 That's about all I wanted to add.

2 MR. COLBORNE: Thank you very much,

3 Chief.

4 MADAM CHAIR: Thank you.

5 Mr. Cassidy?

6 MR. CASSIDY: Thank you, Madam Chair.

7 CROSS-EXAMINATION BY MR. CASSIDY:

8 Q. The dues that you were just talking
9 about being raised from \$3 to \$8, do you happen to know
10 if those are what's called "stumpage fees"?

11 A. That's what it is.

12 Q. That's what it is?

13 A. Stumpage and dues. I don't know what
14 that entails. The loggers know that it's dues. It's
15 stumpage and so forth.

16 Q. Do you think it's the same thing?
17 Dues and stumpage fees?

18 A. Yes.

19 Q. These are amounts of money that the
20 loggers have to pay to the Ministry of Natural
21 Resources--

22 A. Yes.

23 Q. --to cut wood?

24 A. That's right. To cut wood.

25 Q. And they've increased it from \$3 to

1 \$8?

2 A. Yes.

3 Q. Do you know why it is that the
4 loggers feel they should not pay that increase?

5 A. Well, first of all, in terms of the
6 recession and so forth, a hundred per cent increase is
7 quite, quite large. I am looking at least 4-10 per
8 cent, you know, that type of range.

9 I think if some good discussions happen
10 in terms of why such a raise, if there's some
11 deliberation on it, maybe in terms of regenerating or
12 so forth... Them things got to happen between -- so
13 they understand.

14 Q. How does the regeneration come into
15 it?

16 A. Well, I think, the way I look at it,
17 that's why they charge you a fee so that, you know,
18 the monies that they -- we don't have a problem with
19 that. If you cut down a tree, you got to replace it
20 and hopefully some of this money goes towards that kind
21 of thing. Them kind of discussions don't happen.

22 Q. So, you want to have discussions to
23 make sure that that extra money that you, I guess it's
24 \$5, comes back in terms of, comes back as regeneration
25 money?

1 A. That's right.

2 Q. Right. Okay.

3 Am I correct, Chief - and I don't want to
4 summarize your evidence because I don't think I could -
5 but I think I could suggest the following. Would you
6 agree with me that in essence your Band is a logging
7 community that really wants to cut more wood, not less;
8 is that fair?

9 A. That's fair.

10 Q. So you want to increase your forestry
11 logging activity; right?

12 A. That's right.

13 Q. You also went on to say that -- well,
14 let me come back to that.

15 If someone were to suggest that there
16 should be a wilderness park in your area where no
17 logging would be permitted, I would take it that you
18 would oppose that?

19 A. Well, the way I would answer you on
20 that is that I would have to look at the benefits that
21 we're going to get. We would have to do it as a
22 community. Like, I wouldn't be able to make that
23 decision. But I would have to look at it in terms of,
24 okay, what sacrifices -- what are we going to get? How
25 are we going to benefit? That's the kind of things

1 that, you know, them kind of deliberations got to go on
2 again.

3 If there's going to be jobs for our
4 people they may say yes; they may say no. You got to
5 look at, you know, how it's going to be beneficial for
6 your community because there's always a price to
7 everything.

8 Q. Is it fair to say that if a
9 wilderness park with no logging permitted was proposed
10 for your area, that that would cause you an economic
11 hardship? On the face of it?

12 A. I think it would create a lot of
13 economic hardship.

14 MR. MARTEL: Can I ask you something
15 then. And again it's just following up with Mr.
16 Cassidy as a form of a hypothetical.

17 Let us say, through negotiations, you
18 found out that your people were going to be in charge
19 of the Park and create as many jobs as you've had in
20 logging, that's the sort of thing you are looking at,
21 that it depends on what the overall benefits would be
22 to your people. And if you could get more jobs in what
23 is a very scarce number of jobs, that's an alternative
24 you would look at quite favourably?

25 THE WITNESS: Yes. As long as it's

1 within our rules and our policies that we set up, that
2 we enforce, like I say, the environmental laws and so
3 forth. That's the kinds of things we would look at.

4 Because we are a people that really
5 exercises our, you know, our government, our own. Like
6 we believe in solving our own problems. We believe in
7 like economic development. We have to speak, we have
8 to speak to MNR and we have to speak to Great Lakes and
9 we do that. You got to begin that process. And
10 certainly if we're looking at a park, we're going to
11 have to look at how it's going to be beneficial to the
12 community as opposed to say logging.

13 MR. CASSIDY: Q. So you would look upon
14 logging or a park as an economic development tool. You
15 don't carry on logging because you like to do logging
16 per se, you do it as an economic development mechanism;
17 right?

18 A. Well, it's survival.

19 Q. Right. Economic survival.

20 A. See, the development of people is
21 important. This is why I stress to you that welfare --
22 there seems to be a lot of money for welfare. I wish
23 it would be reversed and turned into economic
24 development because it does well for people.

25 Q. You are interested in developing the

1 economy of your people?

2 A. That's right.

3 Q. And logging is one means; right?

4 A. Yeah.

5 Q. And if a park came along, you would
6 weigh -- or a park proposal came along, you would weigh
7 the economic, potential economic benefit of the park
8 versus logging and you would probably choose the one
9 that provides you with the most benefits for your
10 people. Is that fair to say?

11 A. (Nodding).

12 Q. So if, for example, the wage rates of
13 a park are much lower than the wage rates offered in
14 logging, it might be conceivable that in that
15 circumstance you would pick logging as the economic
16 development mechanism for your area. Is that fair to
17 say? Yes?

18 A. Yeah. I said "Yes."

19 Q. Now you also indicated that - and I
20 am not going to get into the negotiations between
21 yourself and Canadian Pacific that you have referred
22 to. And when I say Canadian Pacific, I am referring to
23 Great Lakes Paper, the negotiations referred to.

24 But you were talking about you were
25 looking for some understanding from Canadian Pacific or

1 Great Lakes that they would buy the wood that you had
2 available. I take it you are not suggesting that they
3 would buy the wood, even if there was no demand in
4 their mill for it?

5 A. Well, I will answer you this way. I
6 think in their planning -- again, we are a people that
7 understand like, say, certainly the recession. I
8 understand that.

9 Q. I am glad to hear that.

10 A. But I think that what's got to happen
11 is in the planning that there's got to be discussion
12 between my loggers that they understand things and
13 maybe they have to cut back. We understand that. But
14 I think we have got to be convinced too. Like, don't
15 only cut us either, and the next guy can cut 20,000
16 cords. We don't agree with that. Because on the small
17 quota that we had, we got cut last year to 3500 cords
18 from 5500. We lost 2,000 cords. That's not made
19 public.

20 Q. My understanding is that mill demand
21 actually went down last year.

22 A. Yes.

23 Q. And as a result, all the small
24 operators that supply wood to the Canadian Pacific mill
25 had their contracts reduced.

1 A. Yeah, but the thing is -- let me
2 answer you this way. We're not a small operation.
3 We're a community of 282. This is what I try to say.

4 Q. Perhaps I should say --

5 A. You are not talking about one
6 entrepreneur here. We're talking about a community.

7 Q. Perhaps I should suggest to you, sir,
8 that when I say small operators, I mean non-Canadian
9 Pacific woodworkers?

10 A. Right.

11 Q. And my understanding is that they all
12 had their contracts reduced last year because mill
13 demand went down because of the recession. Is that
14 your understanding?

15 A. That's my understanding.

16 Q. And in fact I want to get on to this
17 topic of the C.P.'s mill or woodlands workers. You are
18 aware that the International Woodworkers Union has a
19 collective agreement with Canadian Pacific Forest
20 Products for their woodlands workers? You know about
21 that collective agreement?

22 A. Yes.

23 Q. And do you know that that collective
24 agreement restricts Canadian Pacific Forest Products
25 from purchasing wood from non-union people such as

1 yourself and restricts Canadian Pacific Forest Products
2 to only purchasing a very small percentage of their
3 wood from non-union people like yourself? You are
4 aware of that?

5 A. I am aware of it.

6 Q. And in fact, that is something that I
7 wanted to ask you about. Have you ever spoken to the
8 International Woodworkers Union to ask them if they
9 would let Canadian Pacific Forest Products purchase
10 greater amounts from you?

11 A. No. I think what we're going to do
12 is if that's the case, then we're going to talk about
13 our treaty rights.

14 Q. With the Union?

15 A. Yes, with the Union.

16 Q. Have you done that yet?

17 A. No, we will do it. If they want to
18 play games like that, we can play games too. We will
19 exercise our ownership to the -- to their claiming of
20 the 55,000 square miles in question. I have no
21 problems. And I think we will send them a big bill.

22 Q. Is it fair to say then that any of
23 these negotiations should include -- for you to
24 increase the amount of wood you can sell to Canadian
25 Pacific Forest Products, you are going to have the

1 Union's agreement to that or you are going to have to
2 persuade them in some fashion through your treaty
3 rights, et cetera? You are going to have to do that,
4 aren't you?

5 A. No, I don't think so.

6 I think right now the Great Lakes does
7 buy, in my opinion, or C.P. Forest Products -- they
8 change so much. I really don't know who they are
9 anymore.

10 Q. Well, that was over two years ago --

11 A. My understanding is they were Dryden
12 Paper at one time, Reed Paper, and everything else.

13 But, I really think that people buy --
14 they have, in my mind, a non-written obligation to buy
15 from people, like, say local farmers. They want that
16 work. And it's only good economic sense that they do
17 it.

18 And certainly when it came to buying wood
19 from Eagle Lake Band, that was beneficial to their, to
20 their... So why quit it? Why shut it out? When we do
21 not have any more wood, let's have an agreement here.
22 Maybe these things were discussed prior to my time.

23 Q. You referred to an individual who had
24 15,000 cords. Do you know who -- can you give me the
25 name of who that person is?

1 A. No, I never deal with names.

2 Q. Well, the only way I can find out
3 whether or not that in fact is the case, sir, is to ask
4 you, and that's why I am asking you. That's the only
5 way I can find out whether that's true is to check and
6 see --

7 A. My answer to you would be go to Great
8 Lakes. They do have all of the wood they purchase from
9 people.

10 Q. So you know the name but you won't
11 tell me?

12 A. No, I don't know the name.

13 Q. You don't know the name?

14 A. I know one person that has 5,000
15 cords, a good friend of mine.

16 MR. CASSIDY: Okay. Those are my
17 questions. Thank you.

18 MADAM CHAIR: Are you finished?

19 Thank you, Mr. Cassidy.

20 Ms. Gillespie?

21 MS. GILLESPIE: Yes, Chief Gardner, I
22 just have two questions.

23 CROSS-EXAMINATION BY MS. GILLESPIE:

24 Q. You mentioned that you have to travel
25 one-and-a-half hours to your timber allocation?

1 A. Yes.

2 Q. Can you tell me whether there is any
3 harvestable timber closer than one-and-a-half hours to
4 your community?

5 A. Yes, there is. And I can only relay
6 to you again what my people say. And I have heard
7 comments like this from loggers, even the entrepreneurs
8 we do have. We have three skidder operations that are
9 involved in these group of 30 people that work in
10 logging.

11 The allocations that they get, you don't
12 need a skidder there. What you got to be is a mountain
13 lion or a mountain -- that's the kind of timber they
14 get. And what it is is it's areas that were left by
15 Great Lakes. We are kind of a clean-up crew per se
16 because there's an agreement. Like, you got to
17 understand. We get some wood from the Great Lakes
18 district cutting licence. They issue it. And then we
19 also get some from the MNR or the MNR Crown lands that
20 they do have some timber that they allocate to us.
21 It's not the greatest.

22 Q. And are there timber activities
23 actually taking place within that hour and a half as
24 well? You say there is?

25 A. Yes, there is. Well, they see it.

1 They got to see it. That's what they bitch about all
2 the time. "Why not us get a darn good allocation one
3 year?"

4 I don't know, sometimes I look at things
5 as -- certainly as a businessman. Maybe it's good that
6 they are getting this, going through these type of
7 things because it takes time to re-grow the trees. It
8 takes a long time.

9 Even Great Lakes Paper itself, they have
10 to go many, many miles and they are not out about an
11 hour and a half, you're talking about at least 2 or 3
12 hours a day one guy that works for Great Lakes tells
13 me. I know what time he leaves in the morning and what
14 time he gets home at night.

15 So, when we travel to the -- like, it's
16 not good business for Great Lakes to come back and
17 clean it up. It's not worth their time economically.
18 I think they are looking at different opportunities.

19 Q. Is there any different price for wood
20 based on it being a clean-up process--

21 A. No, that doesn't --

22 Q. --that there may be more work?

23 A. No, not that I know of.

24 MS. GILLESPIE: Those are all my
25 questions.

1 MADAM CHAIR: Thank you, Ms. Gillespie.

2 Mr. Freidin, Chief Gardner has explained
3 in some detail his evidence and we've had some
4 extensive cross-examination. Do you have many
5 questions?

6 MR. FREIDIN: Yes, I have some questions.

7 CROSS-EXAMINATION BY MR. FREIDIN:

8 Q. The reference to the increase in the
9 stumpage from \$3 to \$8, is that something which
10 occurred in one year or is that something which has
11 occurred over a number of years?

12 A. No, it just occurred recently it's my
13 understanding. Like I said I just got a call
14 yesterday.

15 Q. You said in your evidence that there
16 are lots of areas where if you don't plant, the poplar
17 will come back. What kind of areas are you referring
18 to? What sort of trees are on the areas that you say
19 if you don't plant, poplar will come back?

20 A. What I said was this -- I think you
21 have misinterpreted my, you know, what I was trying to
22 say to you. Years ago, I'm going back years now--

23 Q. Yes?

24 A. --if there was no -- the forestry
25 activities that go on now in terms of regen,

1 regenerating the forest, if that doesn't happen, and it
2 didn't happen in our reserve, they were just cut down
3 and that was it.

4 So what's going to come up after you cut
5 say the jack pine down. It's poplar that always pops
6 up. And certainly the balsam species is the other one
7 that survives. And that's why we do have right now,
8 on-reserve, as I said, mostly balsam and poplar
9 scattered.

10 That's what I was referring to when I
11 said that. But we are in -- doing a lot of regen on
12 our reserve now. We cut them down and we come back
13 here after, scarify, and we replant the kind of species
14 we want.

15 Q. All right. And that's on the reserve
16 you are undertaking that?

17 A. Yes.

18 Q. And is it your view that those areas,
19 where on the reserve you are cutting these areas down,
20 that if you didn't go back and scarify and plant, that
21 what you would end up with would be a lot of poplar
22 which would not be as acceptable to you?

23 A. Yes, that's true.

24 Q. Is that right?

25 A. Yeah. Because it affects everything.

1 It affects the animals. You know, not all animals like
2 poplar. You've got to have other things. I think it's
3 just common sense to me. With these little worms that
4 are crawling around, I don't know what they are doing
5 to the environment. Must have some kind of effect.

6 Q. Do you have areas on your reserve
7 where you cut timber but you do not follow up with
8 planting but you rely on natural regeneration to in
9 fact create the regeneration?

10 A. Well, again, money is limited and we
11 do not have the resources within our own community to
12 rebuild, say, our forests. We rely a lot on the
13 governments per se. We are very supportive of the
14 Indian Forestry Development Program. That involves our
15 people in terms of actually doing the planning, the
16 tending and the scarification of the grounds in
17 question and the type of timber that goes on.

18 MR. MARTEL: Can I ask a question because
19 I think we heard this yesterday too. I think someone
20 said that there wasn't enough money to buy the
21 seedlings. And we questioned it last night.

22 MADAM CHAIR: I don't think -- the issue
23 was not there wasn't money to buy seedlings, but the
24 amount of seedlings that were made available to a
25 certain Band was less than it used to be.

1 MR. MARTEL: And I can't understand.
2 Because my understanding was that seedlings are in fact
3 supplied by the Ministry.

4 MR. CASSIDY: Well, you may recall
5 evidence that our client led about a seedling cap, a
6 nursery cap. So just to refresh your memory it's not
7 just the native parties who suffer at the hands of
8 that.

9 MR. MARTEL: That's right. And I recall
10 that a year ago we threw away three million seedlings
11 because they weren't allocated for in the budget I
12 guess, and we threw them away.

13 And when people need seedlings and there
14 are none available, I just was wondering if someone
15 felt that they had to pay for them or is it simply
16 because of the cap that you are not getting them? Is
17 it lack of money or is it because of the cap that you
18 are not -- you don't have the seedlings necessary to
19 replant the area that's been cut over?

20 THE WITNESS: Let me explain it to you
21 this way. The way that we do our regen is we put the
22 money up front. And that's hard to do many times. The
23 Indian Forestry Program, which we rely a lot on, the
24 agreement -- I don't think there is an agreement
25 between the Indian Forestry and the MNR at this point

1 in time.

2 What we do is we buy it. We buy the
3 seedlings from MNR or from their nurseries because
4 there's got to be some planning. When you plant a
5 tree, you just don't plant it any anywhere. There's
6 other activities that cost a hell of a lot of money in
7 my opinion, and that's scarifying the ground.

8 MR. MARTEL: Could we stop there because
9 I want to go back. I want to be perfectly clear that I
10 am hearing you say that native people have to buy the
11 seedlings from the province. Now I would like to know
12 why.

13 Maybe somebody someday will tell me why
14 it's different. If you pay stumpage and I guess it
15 goes to -- I mean there's something wrong if one part
16 of society, the most affluent, can get the seedlings
17 provided for them, why should the poorest sector of our
18 society have to pay for the bloody things?

19 MR. FREIDIN: Maybe I can just...

20 MR. MARTEL: Will somebody help me.

21 MR. FREIDIN: Maybe I can just clarify
22 that.

23 Q. When you get trees to plant,
24 seedlings, plant seedlings, has it been your practice
25 to buy those seedlings from the Ministry of Natural

1 Resources or do you get them from somewhere else?

2 A. We just finished planting 45,000
3 trees, but I didn't know where we bought them from.
4 All I was asked on behalf my administration was, can we
5 advance this project "x" number of dollars, and I wrote
6 out a cheque to them right away.

7 But what they do, the IFDP now, the
8 Indian Forestry Development, they pay us back through
9 the Canadian Forestry Service. I think there's some
10 kind of an -- I don't know how they are affiliated.

11 Q. Okay. And just leaving aside whether
12 you pay or not, would you agree that one difference
13 between planting on the reserve and planting on Crown
14 land is that the reserve is not -- it's federal land,
15 it's reserve land, it's not part of the provincial
16 Crown land? A fair statement?

17 A. Yes.

18 Q. You made reference to the Indian --

19 MR. MARTEL: It does worry me where it
20 comes from because --

21 MR. FREIDIN: Where the money comes from
22 to pay for the trees?

23 MR. MARTEL: How it gets there, when it
24 gets there because too many times I have seen where we
25 get caught in what is a provincial regulation as

1 opposed to what's a federal regulation and caught in
2 the middle is the - it doesn't necessarily mean this
3 one, but a whole series of things - and caught in the
4 middle is the Indian community.

5 And as you try get it sorted out, it
6 becomes almost a swamp. Trying to get it sorted out,
7 who helps who and how things are done, and you've got a
8 Band caught in the middle. And that's what's worrying
9 me and why I am trying to get it all sorted out in my
10 own mind.

11 For example, if you didn't have the money
12 to put up front, how would you get the trees? You
13 might be reimbursed eventually providing you could
14 afford them in the first place. And if you couldn't
15 afford them in the first place, then you can't
16 regenerate your reserve.

17 And I think it's vital to understand, at
18 least from my point of view - I won't speak for anyone
19 else - for me to understand just how that is all sorted
20 out to ensure that the capacity to regenerate is there.
21 I mean, how it's done, Mr. Freidin, is immaterial, but
22 how it gets done and to ensure that it is done.

23 MADAM CHAIR: Mr. Martel has a concern,
24 obviously, and we're either going to ask for a response
25 from the Ministry in the form of a Board interrogatory

1 or an undertaking that you provide us with some
2 information on how Bands purchase seedlings and where
3 that money comes from; whether it's provided by
4 Forestry Canada or whether it's provided by Indian
5 affairs; what do bands such as Eagle Lake do with
6 respect to seedlings?

7 MR. FREIDIN: I think you are going to
8 have to -- it may not be the same for every Band and I
9 think the Band members or the Band manager or somebody
10 who is involved in that operation is the best person to
11 indicate where they get their trees from and how they
12 pay for them. And we're talking about on-reserve lands
13 where--

14 MADAM CHAIR: We are talking about
15 on-reserve lands.

16 MR. FREIDIN: --the evidence is that the
17 Ministry of Natural Resources has absolutely no control
18 over what goes on in terms of silviculture, so...

19 MADAM CHAIR: Well, we know that, Mr.
20 Freidin, but it's curious to us that you wouldn't know
21 surely that bands purchase seedlings locally. They
22 wouldn't import them from some foreign place.
23 Certainly some consideration would be given to the
24 number of seedlings that all bands in Ontario would
25 purchase over the course of a year.

1 MR. FREIDIN: Well, that's a different
2 question. If you are asking whether in fact the number
3 of trees or seedlings which are produced on an annual
4 basis take into account the number of seedlings that
5 may be required or requested by Indian bands for
6 on-reserve use--

7 MADAM CHAIR: You could provide us with
8 that information?

9 MR. FREIDIN: --in addition to any other
10 factors that could be taken into account, I think I can
11 ask my people about that.

12 MADAM CHAIR: All right.

13 But you don't know how the Band purchases
14 those?

15 MR. FREIDIN: No, I don't.

16 MADAM CHAIR: Mr. Colborne, are you able
17 to help the Board with respect to whether bands -- how
18 bands come up with the money to purchase seedlings for
19 on-reserve tree planting?

20 MR. COLBORNE: I think I can obtain that
21 information by this afternoon. I have just asked some
22 people who are with me to obtain that information and
23 so I hope to come back this afternoon with an answer.

24 MADAM CHAIR: Thank you.

25 MR. MARTEL: I think it would be helpful

1 because if they haven't got the capacity to regenerate,
2 the future continues to be bleak. You know, if you
3 have to wait for up-front money and you don't have it,
4 what happens? And maybe we can get that sorted out, or
5 part of it anyway at least.

6 MR. FREIDIN: Okay. So I think we've
7 explored this. There's the economic part of it where
8 you get the money, and I have asked the question as to
9 how they actually go about doing it or want to go about
10 doing and I think we've dealt with that.

11 Q. Now, you mentioned the Indian
12 Forestry Development Program. And you are working
13 closely with them at the present time in relation to
14 timber operations?

15 A. (Nodding.)

16 See, for them to get involved, like their
17 mandate is within the boundaries of a reserve. Say in
18 particular, my community. We're involved outside of
19 the reserve, and the kind of advice that I am getting
20 from them is why don't we apply for a lot of the regen
21 that's happening outside of the community. Why don't
22 we take on contracts.

23 Now, when it comes to the Indian
24 Forestry --

25 Q. This is the Development Program?

1 A. Yes. The evidence, I am sure they
2 gave evidence, they are struggling for survival. You
3 take that away. What do we got? We've got nothing.
4 Absolutely nothing. And I am glad they made a
5 presentation here.

6 Q. Chief Gardner, do you have for your
7 reserve a recently produced forest or timber management
8 plan prepared by the Indian Forestry Development
9 Program?

10 A. It's not complete but it should be
11 complete within the year.

12 Q. And you indicated that you were a
13 forester. Is that through experience that you --

14 A. No, I have -- I attended -- I am not
15 a professional forester. But the way that I look at
16 things, like the expertise that I have gained in 40
17 years of my life living with nature and so forth and
18 the kind of teaching that I get from the elders along
19 with the academics that I do have, I am a technician.

20 Q. All right. That's what I was getting
21 at.

22 A. I graduated from Sioux College,
23 Cambrian College in 1972.

24 Q. Good. Thank you very much.

25 MR. MARTEL: Did you ever have a job with

1 the Ministry as a forest technician?

2 THE WITNESS: I beg your pardon?

3 MR. MARTEL: Did you ever have a job with
4 the Ministry, a full-time job with the Ministry, as a
5 forest technician? Or did you ever apply for a job as
6 a forest technician?

7 THE WITNESS: I applied, I applied.

8 MR. MARTEL: And you didn't get one?

9 THE WITNESS: No.

10 Like I say, I don't know. I don't
11 understand some things. But, you know, I just want to
12 say this in regards to that. My father told me and my
13 mother, when I was a young man growing up and
14 determining my career, they said get into forestry.
15 You are never going to be out of a job because
16 pollution (phoen.) is always going to be here. That's
17 what that they said. And I did it.

18 MR. FREIDIN: Those are my questions.

19 MADAM CHAIR: Thank you, Mr. Freidin.

20 Mr. Colborne, do you wish to re-examine?

21 RE-DIRECT EXAMINATION BY MR. COLBORNE:

22 Q. One question, by way of
23 re-examination. Mr. Cassidy asked you about--

24 MR. CASSIDY: I must be doing something
25 right; you are always picking on me, Mr. Colborne.

1 MR. COLBORNE: Q. --a collective
2 agreement obligation that Great Lakes has with the
3 Union representing some of its employees; that
4 obligation being that Great Lakes can only buy so much
5 wood from non-union sources.

6 In your discussions with Great Lakes -
7 and you told us that you did have discussions with
8 them - have they told you about that?

9 A. Okay. What they said was you have to
10 look after our people. If they do it at a low level,
11 then there's really no -- you know, people got to live.
12 I think the union people understand that. So like it's
13 an unwritten agreement.

14 What really puzzles my community is this:
15 I think Great Lakes or CP are moving in the direction
16 of something that they are saying that they don't want.
17 Like I see it, but it's up to the unions to fight with
18 the Company.

19 Q. I don't quite understand that whole
20 last bit.

21 A. What it is, is they are going to go
22 owner/operator. That's the movement.

23 MR. COLBORNE: Thank you.

24 MADAM CHAIR: Thank you very much, Chief
25 Gardner.

1 THE WITNESS: You are welcome.

2 MADAM CHAIR: The Board appreciates you
3 coming here this morning and giving us your evidence.
4 Thank you.

5 ---Witness withdraws.

6 MADAM CHAIR: Mr. Colborne, do you want
7 to take the lunch break now?

8 MR. COLBORNE: Yes, it is almost twelve
9 noon. I should tell you, however, that my optimistic
10 estimates of time have not materialized.

11 All of my Panel 6 witnesses are here, but
12 judging by the speed that we progressed this morning, I
13 am no longer thinking that there's much chance that we
14 can finish the case today. I will try.

15 MR. MARTEL: I've got news for you.
16 (Laughter) Either that or I'm walking home. We will
17 sit this evening.

18 MR. COLBORNE: Well, I would be glad to.
19 I haven't even had a chance to speak to Grand Chief
20 Fobister. He has been on the road for at least as many
21 days as Chief Gardner, and I am not sure how much more
22 he can take. And I know that this Board has been on
23 the road and all of us have been, so, we're going to do
24 everything we can to expedite this. But if you can
25 perhaps give me the noon hour, even if it's a short

1 luncheon break, to talk to my witnesses, we will move
2 as fast as we can.

3 MADAM CHAIR: That's fine, Mr. Colborne.
4 As the Board said at the beginning of this week, we are
5 content to sit this evening, depending on everyone's
6 endurance, and we're most anxious to finish your case.

7 MR. COLBORNE: Very well.

8 MADAM CHAIR: Thank you. Would an hour
9 for lunch instead of an hour and a half provide any
10 advantage to you or do you feel you need the longer
11 time to organize?

12 MR. COLBORNE: An hour for lunch would be
13 sufficient.

14 MADAM CHAIR: We will be back at one
15 o'clock.

16 MR. COLBORNE: Thank you.

17 ---Recess at 12:02 p.m.

18 ---On resuming at 1:10 p.m.

19 MADAM CHAIR: Please be seated.

20 Mr. Colborne?

21 MR. COLBORNE: My next witness is Chief
22 Kelvin Chicago from the Lac des Milles Lac Band.

23 Chief Chicago.

24 MADAM CHAIR: Good afternoon, Chief
25 Chicago.

1 CHIEF KELVIN CHICAGO, Sworn

2 MADAM CHAIR: Thank you, Chief Chicago.

3 Please take a seat.

4 DIRECT EXAMINATION BY MR. COLBORNE:

5 Q. You are Chief of the Lac des Milles
6 Lac Band; is that correct?

7 A. Yes.

8 Q. Can you show us on the photomosaic
9 where your Band's territory is? It's not an ordinary
10 map, so take your time. Can you just describe in words
11 the approximate location that you're referring to?

12 A. About this location here.

13 (indicating)

14 Q. I beg your pardon?

15 A. Right on the border line of Treaty 3
16 boundaries and north of -- about northeast -- northwest
17 of Atikokan.

18 Q. Northwest of Atikokan?

19 A. Yes.

20 Q. And is it in relation to a particular
21 body of water or other landmark?

22 A. Yes, it is, it's -- well, we've got
23 two locations actually which is Seine River 22A2 and
24 Lac des Milles Lac 22A1.

25 And 22A1 is located right on the river --

1 right on the lake of Lac des Milles Lac itself, in fact
2 that's how we got our reservation named Lac des Milles
3 Lac.

4 Q. Now, I understand that you do not
5 have a residential community located on reserve?

6 A. No, we don't.

7 Q. How did that come about?

8 A. Well, that happened quite some time
9 ago actually. People didn't -- we were sort of
10 isolated from the highway and it was very hard actually
11 for people -- it was at that time, before it was
12 easier, but then there was not enough employment or
13 kids had to school. They had no choice to leave
14 actually because there was no employment and basically
15 there was no way of survival.

16 And along with Indian Affairs people, I
17 can at least identify them, they were -- they never
18 gave the proper funding to the Band to survive,
19 basically they had to follow certain rules of the
20 Indian Act.

21 So basically they didn't have no -- so
22 that's the bottom line I guess, lack of funding, no job
23 creations and people had to leave to go seek some
24 employment someplace and their kids to go to school.

25 Q. Where did the people go?

1 A. Virtually they went all over the --
2 virtually all left and went to Upsala and then
3 eventually they started spanning out, Thunder Bay, and
4 then eventually to Kenora and all over the place.

5 We are situated now all across Canada and
6 virtually we've got Band members in almost every town,
7 about 20 Band members in every town and I think they
8 have about three here in Fort Frances.

9 Q. You mentioned Upsala, is that near
10 where the people were originally living before they
11 left the land?

12 A. About seven kilometres, 22A1, and
13 22A2 is about 25 kilometres from there.

14 Q. What's the current situation in terms
15 of an on-reserve community?

16 A. Right now we need our feasibility
17 study to complete it and the people will not move back
18 unless there's actually some kind of creation out
19 there, job creation for them, and there's no housing,
20 so basically we need the housing first and the jobs
21 actually to go with the housing.

22 Basically that's why they left in the
23 first place was there was no jobs available.

24 Q. What plans or ideas do you have about
25 what could provide those jobs in the future?

1 A. Well, one of the things is right on
2 22A2, which is easily accessible now, there's an old --
3 it's not old, I guess it's a forestry road and they
4 used to have a sawmill down at the far end of it and
5 now there is no sawmill around there and so the road is
6 a little more easier for us to travel back and forth
7 on.

8 And I know one of the things I've put a
9 package together is to get a sawmill, a portable
10 sawmill right in 22A2 which will -- we can, what do you
11 call it, harvest our own trees, selective trees that
12 we've chosen ourselves that would be the ones that are
13 wholly grown and use those as a means of building our
14 own homes with our own lumber, and eventually toward
15 the end the sawmill would be portable so it would be --
16 virtually be able to go off the reserve and the people
17 that help run this would be trained and as using 22A2
18 as a training facility at the same time and getting
19 equipment for them, equipment and supplies for the
20 actual housing structure to take place.

21 That's basically one of the proposals
22 that I'm working on and there's, you know, quite a
23 number of others actually.

24 Q. You mentioned taking wood from the
25 reserve land. Is there much good wood available?

1 A. Oh no. There's certain sections in
2 22A2 that are very selective, in fact there was
3 cut-over, most reserves were cut over and now that all
4 the selective trees, there's only a few trees standing
5 and they're still working on that right now, and as a
6 Chief, find out where did all those trees go and how
7 come we got virtually nothing but a clump of trees put
8 together, that is basically how it is.

9 And we've got one section on 22A2 which
10 is on the north -- south side of it which was not cut
11 on the basis that it could not get access to it back in
12 the 50s.

13 Q. You said that your members were
14 scattered?

15 A. Yes.

16 Q. Is there any concentration remaining
17 in the traditional area near the two reserves?

18 A. The traditional area. We've got
19 those band members from Thunder Bay and those Upsala
20 people are right there and they sort of, like, they
21 still use the land, they use it for -- basically now
22 what they do is, when trapping was good then they used
23 to use the reserve, the land itself on the reserve on
24 the basis that they could not -- they weren't -- they
25 couldn't trap outside the reserve and so most of them

1 didn't -- most of them lost their trappers licence back
2 quite some time ago and some of them do have theirs
3 now.

4 One band member has a trap line but it's
5 just like a barren wasteland more than anything else,
6 all you see is just small poplar and he has to survive
7 on that.

8 Q. Have you yourself seen that trap
9 line?

10 A. Yes, I went out there myself and I
11 went to the trapper's shack myself and going for -- we
12 drove for -- I don't know, about half an hour down
13 there and that's all I seen was just nothing but wasted
14 land and that's where his trap line is, and he still
15 goes out there to trap and every now and then he just
16 goes out there just to get away from the city.

17 Q. What is the name of that trapper?

18 A. Pardon?

19 Q. What is that trapper's name?

20 A. Roy Bouchard.

21 Q. Are there any other trap lines that
22 you know of that have been affected by forestry?

23 A. Around that whole region, I think
24 with all the -- through that traditional land there
25 from looking at it from the air, quite a few of them

1 actually have been affected, and one band member had to
2 go to school just to learn how to trap.

3 That's kind of -- that's one of them that
4 got affected and, in fact, she wasn't even going to
5 receive a trap line. Then when she failed the course -
6 we don't know exactly, we're still negotiating type of
7 deal with her, how does she want to proceed with, does
8 she want to go back to school again and learn -- take
9 her ten day courses to keep her trap line.

10 I don't think that's fair, to me, that
11 person who - how would you call - raised out there and
12 her brother used to run it and she moved to the city
13 and then when he died, she wanted to take control of it
14 because she was the only family member that was left.
15 So basically that's -- that one has been cut over too,
16 has certain sections have been cut down. They now are
17 still fighting for that one.

18 Q. This ten-week trapper's course or ten
19 day?

20 A. Ten day.

21 Q. Ten-day trapper's course that you
22 mention, do you know anything about what you have to do
23 during that course?

24 A. Basically I have no idea at all. I
25 know that -- I don't know if they give you pieces of

1 paper or something to try to skin a piece of paper I
2 guess or something. I'm not aware of.

3 MADAM CHAIR: Excuse me, Mr. Colborne.
4 We have to have a short adjournment.

5 I'm sorry to interrupt your evidence,
6 Chief Chicago.

7 I think we will have a 15-minute
8 adjournment.

9 Thank you.

10 MR. COLBORNE: Fine.

11 ---Recess taken at 1:25 p.m.

12 ---On resuming at 1:50 p.m.

13 MADAM CHAIR: Please be seated.

14 Please go ahead, Mr. Colborne, and I
15 apologize for having to interrupt your evidence, Chief
16 Chicago.

17 MR. COLBORNE: Q. Chief, you had been
18 giving us some information about effects on the
19 traditional land uses from forestry operations and I
20 believe you had been telling us about certain trap
21 lines.

22 Are there any other effects or aspects of
23 forestry affecting traditional land use in your
24 territory that you'd like to advise the Board of?

25 A. I'm trying to figure out where to

1 begin. Well, basically from the long run I guess I'll
2 just say one which is a sawmill.

3 At that rate it's going I won't need -- I
4 don't need to purchase a sawmill because there will be
5 no trees to cut around there, where I can't do any
6 business, where I can't get any kind of employment for
7 my people except what I have right now is on 22A2.
8 That's basically just the one right there.

9 And the long-term effects for the people,
10 if there's nothing there for them they won't come home,
11 and I don't want them home either if there's nothing
12 there for them. What's the point of providing them
13 with a home if they've got actually no work out there
14 for them.

15 And if you're going to cut all the trees
16 down all at one time, virtually that's -- you're taking
17 not only -- you're not only hurting the people, you're
18 hurting the animals around there and the people can't
19 eat and they can't trap, and it has to be monitored
20 more carefully. So it has a dramatic effect on a lot
21 of things around there.

22 And it's a nice location for tourism on
23 22A1 which is the Lac des Milles Lac itself and there's
24 other camps around there, people and tourists don't
25 want to go to a place where there's no trees, they want

1 to go to a place where they can sit underneath a tree
2 and relax and catch some sleep, that's something that I
3 do anyway. And the people, like, I'm sure they'd like
4 to see the trees there too. There is nothing wrong
5 with taking trees, but you've got to make sure you
6 manage it properly.

7 Q. If you wanted to go into forestry,
8 that is your band in a bigger way in the future, what
9 would be the obstacles or what steps would you have to
10 follow?

11 A. Well, first of all, I have to get a
12 desurrender first from my reserve and that's no problem
13 getting that, but if I want to take business -- if I
14 want to go outside and to conduct business, I would
15 probably have to go through MNR first and get some kind
16 of an approval from them, and I don't know what kind of
17 red tape they've got, but I ran into more red tape
18 there than I can imagine.

19 Q. What red tape are you referring to?

20 A. Well, you know, lack of information
21 or -- basically that's about it. Everytime I try to
22 get some information, like, from the office I'm always
23 allocated someplace else, or you're in the wrong
24 department, you've got a resolution, or does your
25 council support this, and some of the same tactics, and

1 one thing bothers me is that I only went and asked
2 there for one piece of information, whose cottage is
3 that that is on the reserve.

4 He says: I don't know, and yet that's
5 the only people that know. I went to Land Claims and
6 everything, and I still don't know, I still haven't
7 received the answer whose cottage is that. And at one
8 time our people said it was connected to the reserve,
9 it's just about 50 feet off the land -- off of the
10 point.

11 People in the past went into my elders,
12 and I used to remember playing on that island, I used
13 to run back and forth but now the water level came up
14 which the dam was built quite some time ago.

15 People, like, me going in for my elders,
16 they used to play on that island, now there's a cottage
17 there and the water level has gone up so it's virtually
18 divided that island away from the land and that's all
19 I wanted to know if it was at one time connected and if
20 there was a patent or something involved in there. And
21 that's all we wanted to know, who owns the cottage.

22 Q. And what happened when you tried to
23 get the answer to that question?

24 A. They said they didn't have it.
25 Everywhere you build a cottage you have to go through

1 some kind of -- MNR plays a role in there.

2 In fact, I've took one of my councils
3 with me and she started screaming at him. He says he's
4 entitled to know information like that and for some
5 reason he says, we don't have -- we don't carry those
6 kind of papers here.

7 Somebody has to have them. Land Claims
8 didn't -- the land register didn't have them, in fact,
9 they sent me over to the MNR office. I don't know, for
10 every time I try to get information from them it gets
11 difficult all the time.

12 Q. Generally how is the relationship
13 between your Band and MNR?

14 A. In the past it's been very biased you
15 can say and recently I just -- I guess you can say I
16 sort of gave them a chance because I know Al Wilcox
17 from Thunder Bay District, he's a good -- I met him as
18 a friend and I didn't know he was a - what do you call
19 it - MNR person out of western -- he's acting director
20 or whatever, manager.

21 So I kind of, sort of like, bent the
22 rules and maybe then -- you know, just allowed it, but
23 I still don't trust him. Maybe they're up to something
24 and I don't like that.

25 And the people don't like that either, in

1 fact, the people almost jumped my throat when I told
2 them I was dealing with -- we 're going to try just
3 once more. They're more concerned about losing their
4 land than anything else.

5 Q. Sir, did you look at the outline in
6 the witness statement at pages 14 and 15 of your
7 community situation or your Band's situation?

8 A. Pardon?

9 Q. Did you read the--

10 A. Oh, this paragraph?

11 Q. --information on pages 14 and 15
12 about Lac des Milles Lac?

13 A. Yes.

14 Q. And are you the one who originally
15 provided the information that you find there?

16 A. Yes.

17 Q. And when you read it over are there
18 any major errors or omissions?

19 A. No, there isn't. Basically -- when I
20 went over it, this is a short version, but I didn't see
21 any errors in there, it's the truth.

22 I can -- guess you can say it's a shorter
23 version. You've got to remember my Band has been
24 existing since before -- way before boundary lines were
25 in place and so you'd probably have to have -- there's

1 a document about the size of this whole book just from
2 one year alone with Lac des Milles Lac and if you had
3 to go right through from the beginning and right to now
4 you probably would combine all our books together just
5 to make -- just to figure out what the Lac des Milles
6 Lac is and what it endured and what kind of problems it
7 went through and what kind of problems it's going
8 through today, and how it's trying to re-establish its
9 community.

10 Whenever they've established their
11 community the people have always indicated there are no
12 jobs out there for them. So, you know, there's no
13 trapping. We can't -- we've only got one little piece
14 of territory to trap on and there's no trap lines,
15 there's nothing for them. So I'm just saying, the only
16 way out we can figure is the trees. If they're
17 properly used they can go a long ways.

18 MR. COLBORNE: Thank you. Those are my
19 questions.

20 MADAM CHAIR: Thank you, Mr. Colborne.

21 Mr. Cassidy?

22 MR. CASSIDY: Mr. Wadden may have a
23 couple of questions.

24 MADAM CHAIR: Mr. Wadden?

1 CROSS-EXAMINATION BY MR. WADDEN:

2 Q. Chief Chicago, you referred to trap
3 line remnants. Are those trap lines located on the
4 reserve?

5 A. No, they're actually on the First
6 Nation member from Lac des Milles Lac who trapped on
7 his own land and all MNR required from me was a
8 resolution for people -- like, they've got a list of
9 people that wanted -- saying they're trapping on the
10 reserve and I just clarified it with them, I said:
11 Yeah, these people are trapping on the reserve.

12 Q. So the trap lines are on the reserve?

13 A. No, this -- the Lac des Milles Lac
14 and the Seine River 22A2 all -- there are six people
15 that are trapping altogether and they're always getting
16 over fights all the time because it's a small unit and
17 they've got people from Thunder Bay coming in, but
18 you've got 337 Band members now and if the time comes
19 when they're all going to come home, are they going to
20 all trap within that 2,000 hectares or whatever. It's
21 not enough.

22 Q. Sure. So they are located in the
23 area on the Crown lands around the reserve?

24 A. Yes. One is north of Upsala, Roy
25 Bouchard, they're both north of Upsala.

1 Q. And just one more question. When
2 was the last time there was cutting done on the reserve
3 lands?

4 A. It was in '37 and '39 there was
5 something - what it is it called - they had to go under
6 a surrender for lands. Basically every time we have --
7 we want to do something, or they want something, we
8 have to surrender something and we are still under that
9 right now and we have been fighting it, like, you
10 wouldn't believe and I'd say the last period of time
11 was about in the 50s.

12 What happened there was, it wasn't my
13 Band members that did the cutting, they were just paid
14 \$10 each and that was it.

15 Q. The Band members?

16 A. Yeah and they were just paid \$10 each
17 and some company from Winnipeg came in and cut
18 everything down. That's about it till now.

19 MR. WADDEN: Okay. Thank you, Chief.
20 Those are my questions.

21 MADAM CHAIR: Ms. Gillespie?

22 MS. GILLESPIE: I have no questions.

23 MADAM CHAIR: Thank you.

24 Mr. Freidin?

1 CROSS-EXAMINATION BY MR. FREIDIN:

2 Q. Chief Chicago, where do you live at
3 the present time?

4 A. I work out of Treaty 3 office in
5 Kenora.

6 Q. And have you been living in the Lac
7 des Milles Lac area over the last couple of years?

8 A. In fact I do a lot -- I travel a lot
9 and I stop a lot by the reserve all the time, in fact I
10 go to the reserve and make sure because you can only
11 get in there by four by four and most of the people
12 that I've got, they've got vehicles, cars, and I tell
13 them don't bother going in there because you're going
14 to get stuck.

15 Q. Have you been receiving any notices
16 or has the Band been receiving any notices of timber
17 management plans being prepared in the vicinity of the
18 reserve lands?

19 A. Have I been getting any notice?

20 Q. Yes.

21 A. I'd have to check my office. We
22 have - what you call - we have an accountant that gets
23 all the mail and we get our mail roughly about every
24 two weeks and since I've been travelling quite a bit
25 actually, I haven't checked any of it.

1 Q. And is there any system in place
2 whereby that accountant receives the mail, passes it on
3 to you or somebody else within the Band?

4 A. Well, actually he waits until I get
5 back.

6 Q. Do you recall responding to any
7 notices about timber management planning or do you
8 recall actually just getting involved in discussions
9 with the Ministry of Natural Resources about planned
10 timber management activities in the vicinity of the
11 reserve, and I'm talking now in the last two or three
12 years?

13 A. Like I said, I just got involved with
14 the MNR again now.

15 Q. All right.

16 A. We had -- I guess you could say a
17 mis -- I didn't trust them before and I've been a Chief
18 only for my Band for one year.

19 Q. Was there any sort of organized
20 system in place. I mean your Band was scattered as you
21 said.

22 A. Yes.

23 Q. And is it only since you've come
24 back, since you've been elected the Chief that there's
25 been a possibility of some regular sort of contact or

1 more regular contact?

2 A. There is an ongoing contact all the
3 time with all my Band members, that's why I travel a
4 lot, but then also with MNR, in fact I'm going there
5 tomorrow. I'm supposed to be flying out of here
6 tonight to go to Thunder Bay, that's where I'm going
7 tomorrow to find out more to discuss with them.

8 Q. All right. And there was a Chief
9 before you?

10 A. Pardon?

11 Q. There was a Chief of the Band before
12 you were elected?

13 A. Of course, there had to be.

14 Q. Was that Chief living in the
15 vicinity?

16 A. Yes, he was living on the reserve.

17 MR. FREIDIN: No further questions.

18 MADAM CHAIR: Thank you, Mr. Freidin.

19 Mr. Colborne?

20 MR. COLBORNE: No re-examination, thank
21 you.

22 MADAM CHAIR: Thank you very much, Chief
23 Chicago.

24 MR. COLBORNE: My next witness is Valerie
25 Pizey.

1 MADAM CHAIR: This is a witness for Panel
2 3?

3 MR. COLBORNE: Yes. Ms. Pizey is an
4 employee of the Big Island Band and I think she'll be
5 telling us on what basis she is here.

6 Madam, would you please step forward to
7 the Chair and you'll be sworn.

8 THE WITNESS: Okay, sorry. I'm not very
9 familiar with this process.

10 MADAM CHAIR: Hello, Ms. Pizey.

11 VALERIE PIZEY, Sworn

12 MADAM CHAIR: Thank you. Please take a
13 seat.

14 DIRECT EXAMINATION BY MR. COLBORNE:

15 Q. Ma'am, I understand that you were
16 asked to come here by Chief, they call him Big George,
17 of the Big Island Band; is that correct?

18 A. That's correct.

19 Q. And what is your position with the
20 Band?

21 A. I'm the band manager.

22 Q. And as Band manager what are your
23 duties?

24 A. Any and everything that Chief and
25 council may request, act as an advisor to Chief and

1 council, supervise programs and any other particular
2 duties that may be assigned by Chief and council to me,
3 probably the senior staff member.

4 Q. And how long have you been doing that
5 work for the Big Island Band?

6 A. Eight years now.

7 Q. And I understand that Chief Big
8 George isn't available today, she's been --

9 A. She was at the AFN Assembly First
10 Nations meeting in Winnipeg and I gather it's not over
11 until later on today and she couldn't get here on time.

12 Q. You have read I believe the brief
13 description of certain facts concerning the Big Island
14 Band that appears at pages 3 and 4 of the witness
15 statement that has been filed; is that correct?

16 A. Yes, that is correct.

17 Q. And are you familiar with the topics
18 mentioned in that description?

19 A. I am, yes.

20 Q. Do you agree that the -- well, let me
21 put the question this way: Did you notice any serious
22 errors or omissions?

23 A. The only omission I noticed was that
24 there was no mention of the agreement we had entered
25 into with the Finmac Lumber out of Winnipeg for

1 harvesting -- selective harvesting of hardwoods on the
2 Big Island reserves on Big Island.

3 Q. And if I'm not mistaken, is that the
4 topic which was mainly behind Chief Big George asking
5 you to come here so the Board would be aware of that
6 recent development?

7 A. Yes, it was.

8 Q. Could you please tell us about that
9 then?

10 A. About three years ago the Big Island
11 First Nation entered into an agreement with McGregor
12 Hardwoods of Winnipeg, they were called Finmac Lumber
13 at that time, to do some selective harvesting of mainly
14 ash, birch -- mostly ash and birch on the reserve lands
15 on Big Island itself.

16 This was done under the supervision of
17 the Indian Forestry program all winter, I guess,
18 harvesting, logging, whatever, it was all done in the
19 winter and provided employment for some of the members
20 of our community with Finmac Lumber providing the
21 expertise and the machinery, et cetera, et cetera, and
22 the community providing the labour.

23 Since that time we have been doing some
24 discussions with Finmac for the possibility of entering
25 into some type of joint venture to put a plan in place

1 for the entire island and to meet with the Ministry and
2 discuss the entire island because the amount of wood
3 available on our own lands on Big Island will not
4 sustain an annual harvest.

5 If you're going to do it selectively and
6 allow for rejuvenation, et cetera, our land would
7 sustain about one year in every four or five, but if we
8 could include more land we could probably sustain an
9 annual harvest thereby providing employment.

10 But the Chief is very -- the Chief and
11 the people are very concerned that this -- whatever
12 happens with the harvesting on Big Island there will
13 have to be other considerations than just for timber
14 harvest because that is their prime hunting area for
15 moose.

16 All Big Island's commercial fisheries are
17 situated around the island itself and provide quite an
18 economic impact to the community, so the Chief was very
19 concerned that the community should be involved in any
20 timber management that was done, primarily on Big
21 Island is the concern of the community, because that is
22 one of their main sources of economic benefits with the
23 commercial fishery, the moose hunting, a lot of guiding
24 is done there and, with our recent purchase of a
25 tourist camp, we also use our island reserves for

1 baiting, et cetera, for bear harvest as we do not have
2 a bear management unit as yet.

3 MR. COLBORNE: I have no further
4 questions, and I thank you for coming here and bringing
5 that information before the Board. There may be other
6 questions.

7 THE WITNESS: Thank you.

8 MADAM CHAIR: Mr. Cassidy, Mr. Wadden?

9 MR. WADDEN: No questions.

10 MADAM CHAIR: Ms. Gillespie?

11 MS. GILLESPIE: No questions.

12 MADAM CHAIR: Mr. Freidin?

13 CROSS-EXAMINATION BY MR. FREIDIN:

14 Q. Ms. Pizey, it's my understanding that
15 Finmac Lumber approached your Band about getting them
16 involved -- first of all, the island you're talking
17 about is part provincial Crown land and part reserve
18 land; is that right?

19 A. Yes. There is a small reserve on
20 there also that belongs to Northwest Angle but the rest
21 of it is probably 50 per cent Crown -- maybe 60 per
22 cent Crown and 40 per cent Big Island. I don't have
23 the exact figures with me, what the acreage is.

24 Q. Right. And it's my information that
25 Finmac Lumber approached the Ministry of Natural

1 Resources some years ago and were interested in
2 harvesting black ash on the island and that it was as a
3 result of MNR that that company approached the Band and
4 indicated that they wanted to get the Band involved in
5 harvesting some of that wood some years ago; is that
6 right?

7 A. I am not sure where the original
8 reference came to that they -- they did approach the
9 Big Island community, there was some lengthy
10 discussions as to how the community wanted it
11 harvested, what the size of the wood should be, what
12 should be done for rejuvenation, who was responsible
13 for clean up and various environmental concerns of the
14 community.

15 Then, of course, there is the problem of
16 the Indian Act is involved in there too, so it took
17 approximately six to nine months from their first
18 approach to us before a timber cutting permit was
19 issued by the department which is valid for 10 years.

20 Q. All right. That's the timber cutting
21 permit on the reserve?

22 A. On the reserve only.

23 Q. All right. But in relation to the
24 cutting rights off the reserve, you're not aware of
25 what happened or the reason that the company had

1 approached you in the first place?

2 A. We did not know about any of their --
3 I mean, at this time - we're going back three years -
4 we did not know they had approached you for off-reserve
5 timber rights.

6 Q. Okay.

7 A. Since then we have been talking to
8 them about the possibility of talking to yourselves and
9 working out some type of arrangement by which the Band
10 is aware of what is happening on Big Island. As I
11 stressed, what happens on Big Island and how harvesting
12 is done is very, very important for the community.

13 Q. And I understand that in fact cutting
14 or harvesting areas on the Crown land are part of the
15 present timber management plan for the Kenora Crown
16 Management Unit and that Finmac Lumber were involved in
17 that planning process for the Crown land which is on
18 Big Island?

19 A. I understand that Finmac has made
20 some overtures to the Ministry, what they were I don't
21 know, but we as a community have been meeting with
22 Finmac to look at the possibility of extending what has
23 been done on the reserve land to include the Crown land
24 so that you can have a more sustainable yield.

25 We have actually corresponded with the

1 Ministry but we have not yet sat down and discussed
2 details and anything else. I am waiting for the Chiefs
3 to get off their travels.

4 Q. Yeah, okay, that's fine. Thank you
5 very much.

6 MR. FREIDIN: Those are my questions.

7 MADAM CHAIR: Mr. Colborne?

8 MR. COLBORNE: No re-examination. Thank
9 you.

10 MADAM CHAIR: Thank you very much, Ms.
11 Pizey for coming to talk to the Board. Could you spell
12 your last name for us?

13 THE WITNESS: Pi-z-e-y.

14 MADAM CHAIR: Thank you. And could you
15 spell the name of the company you were referring to
16 from Winnipeg.

17 THE WITNESS: They're now called McGregor
18 Hardwoods, they were called Finmac Lumber, F-i-n-m-a-c.

19 MADAM CHAIR: Thank you very much.

20 THE WITNESS: Thank you.

21 MADAM CHAIR: Mr. Colborne?

22 MR. COLBORNE: I will now call my final
23 Panel 3 witness, this will be Grand Chief Steve
24 Fobister. He is here as a principal witness in the
25 Panel 6 evidence but as former Chief of the Grassy

1 Narrows Band he will also be giving evidence concerning
2 that community as part of the Panel 3 evidence, so I
3 will ask him to come forward now.

4 Grand Chief Fobister.

5 Madam Chair, Grand Chief Fobister has his
6 feather, as two of the previous chiefs had, and I
7 believe he will tell us what it represents in terms of
8 his duty to give full and correct evidence here.

9 Go ahead.

10 CHIEF FOBISTER: Thank you. I just want
11 to reassure the Board and the rest of the people here
12 that in this hearing that we're not trying to be
13 different in terms of how we want to swear the truth in
14 a hearing like this, but I was grown up between two
15 forms of belief, the Indian way of belief and the
16 non-Indian way of belief.

17 I was raised in a catholic church, I was
18 also raised by my elders. I think we have a lot of
19 relationships that we all have to respect and
20 understand of how both of our traditions and the way of
21 our believing in the life beyond here exists and the
22 significance of trying to affirm the truth about what I
23 am about to give evidence to the Board.

24 I feel I need a companion and that is the
25 feather which represents the symbol of our country, the

1 eagle, and the significance of a seed grass that we
2 burn is where -- in your religion you believe that's
3 where little baby Jesus laid is on the grass, and
4 that's where we believe it came from.

5 The drum that we beat in order to
6 communicate our creator was the only gift that we gave.
7 At the time that he was born, we played a drum for him.
8 We had no gift to give him except the drum.

9 So those are the significance of things.
10 When we speak to the wind, the thunder, so did Jesus
11 likewise spoke to the storms, the thunder and thunder
12 came to him at the time in Calvary when he was nailed
13 to the cross.

14 So these are the significance and I have
15 never sworn on the Bible, but I will affirm the truth
16 by it. Thank you.

17 MADAM CHAIR: Thank you very much. chief
18 Fobister.

19 GRAND CHIEF STEVE FOBISTER, Affirmed
20 DIRECT EXAMINATION BY MR. COLBORNE:

21 Q. Sir, are you the source of the
22 information that appears at pages 9, 10 and 11 of the
23 witness statement concerning Grassy Narrows?

24 A. Yes.

25 Q. And have you reviewed that today?

1 A. Just glancely I looked at it.

2 Q. Have you reviewed it recently?

3 A. Not most recently.

4 Q. Okay. Well, how long ago was it that
5 you looked at the information that has been filed
6 before the Board with respect to Grassy Narrows?

7 A. I believe it's been three weeks ago
8 at least. I haven't been home for three weeks, I've
9 been on the road, so I kind of saw it this morning that
10 I came in.

11 Q. When you looked at it three weeks ago
12 did you see any important errors or omissions or
13 changes that had occurred since the information was
14 first provided?

15 A. Nothing that I could identify. I
16 believe, if my memory serves me right, I believe
17 perhaps I could have inserted more into it but I more
18 or less compiled it in that form to make a long story
19 short.

20 Q. This all concerns Grassy Narrows of
21 course. I wonder, can you tell on the photomosaic,
22 which is there, where the Grassy Narrows territory is
23 and point it out, and reference to any water system or
24 landmark would be helpful.

25 A. It would be about here, I believe, if

1 I recollect that is the English River.

2 Q. Yes. And it's located on the English
3 River; is it?

4 A. Yes, on the English River system.

5 Q. And where would it be in relation to
6 a large town that we would recognize the town of?

7 A. Well, the town would be here, like,
8 in Kenora. I would identify it just northeast of
9 Kenora, just parallel to as - if you can say - as the
10 crow flies, it would just -- it would just about go on
11 a straight line to Red Lake.

12 Q. I see. The territory that you've
13 been referring to, the Grassy Narrows area, what is it
14 like in terms of the natural environment; is it still
15 pretty well unchanged, or is it in a state of change or
16 how would you describe it?

17 A. I would describe it that there has
18 been significant changes. I would say that for the
19 last 15 to 20 years what Grassy has been going through
20 would be something like the rest of society would go
21 through in a hundred years.

22 Q. Could you explain that or elaborate
23 on that a little?

24 A. Well, of course, you know, they were
25 relocated, dislocated by developments, introduced to

1 modern civilization. You might say that they were
2 trying to be assimilated to the western type of
3 society. They went through a regular changes that, you
4 know, that they've had complications with besides with,
5 you know, mercury pollution, sort of a final, you know,
6 disaster to all other changes.

7 Q. At the present time what is the
8 situation at Grassy Narrows, like, particularly in
9 terms of the economic basis, employment, future
10 economic plans and so on?

11 A. They struggle to maintain an equity
12 base for their Band at the present. They are trying to
13 look at a land base to work with in terms that will
14 make them self-sufficient.

15 Q. And are there any particular plans or
16 proposals that are aimed at achieving that land base?

17 A. Yes. They've had these plans for the
18 last 15 years and with negotiations with both levels of
19 government and other forms also in trying to work
20 closely with the multi-national corporations who are
21 engaging in some activity within the area that they
22 perceive to be their traditional land use area.

23 Q. Speaking for a moment of just the
24 reserve and not the traditional land use area, is there
25 much wood left that can be harvested on the reserve

1 itself?

2 A. Not at all.

3 Q. And what about in the traditional
4 land use area, is there harvestable wood still
5 available in that territory?

6 A. There are patches of harvesting area
7 that they are presently engaging now with very minimal
8 contracts from Boise Cascade Limited.

9 But more to the larger portion as we can
10 describe, what could be their traditional land use
11 area, there is quite a amount of extensive logging
12 undertaken right now in the northern side of it.

13 Q. Is the logging that takes place in
14 that area and has taken place in that area, does it or
15 has it had an effect on traditional land use activity
16 such as fishing, transportation, wild rice and hunting?

17 A. It definitely did.

18 Q. Describe those effects.

19 A. Well, first of all, we've had
20 trappers who have complained that their traditional
21 setting where animals could feed or make homes within
22 their areas -- because of trees disappearing, like the
23 martin, the fisher were rapidly disappearing and also
24 there was a concern that because the roads that are
25 being blazed through their territory where they were

1 trapping there was no -- there was nothing where too
2 many dams have been made or either the flow of water in
3 the creeks where the beavers would normally make their
4 homes and were disturbed because there was no regard
5 to, you know, the animals around. No regard was ever
6 given that, you know, other things had to survive there
7 to sustain themselves in such a way that were there.

8 And I guess the other thing would be the
9 forestry that was -- the logging that was going on is
10 mostly all these 30, 40 years it has been -- logging
11 has been going on in the area, they've looked at these
12 opportunities, you know, going by and no real benefit
13 going to the people that have to live within that area,
14 of course we see people coming and going and taking
15 things out.

16 That's what really hurt the community, is
17 they weren't utilizing whatever type that we wanted to,
18 we wanted to either attract them to patronize our
19 community in terms of store and, et cetera, but the
20 roads and the invasion was more or less, you know, a
21 disaster to the community.

22 Q. How many people who live on the
23 reserve now are employed in forestry or forest related
24 work?

25 A. I would say in terms of the contracts

1 that we have currently with Boise, about eight to 15
2 men would work. We try to stretch it to more men to
3 work in the logging, but that is just in order to try
4 and provide jobs. But the limited funds that we get
5 from it in terms of, we always have to struggle with
6 logging, it's not enough to, you know, to sustain any
7 profits for the Band or enough to put people to work.

8 It's -- you know, how much can you hire
9 people when you are only limited to 3,000 cords a year.

10 Q. What is the unemployment situation
11 like on the reserve?

12 A. As of now it's very low despite that
13 they don't have dollars in terms that they have
14 invested from the compensation, but the real question
15 in order, no matter how much dollars you have, you
16 still have to have an access to resources or access to
17 land that you can utilize in order to regenerate jobs
18 and self-sufficiency basis for the community.

19 So on the bottom line you have money, but
20 what -- how do you make it work. So jobless in the
21 community rate is still very, very down.

22 Q. Are there available people though who
23 would qualify to work in the forest industry but the
24 jobs are not there?

25 A. I believe there's people that can

1 work in the forest industry. I believe that that is
2 one of the most economic bases in northwestern Ontario,
3 and I think even the Town of Kenora would tell you
4 that, but that is not for reserve.

5 It seems, like, so if we were to engage
6 equally in equal opportunity to employment with the
7 company, I think it would be better for everybody else.

8 Q. I wanted to ask you about some
9 specific passages in the witness statement, and the
10 first is one that appears almost at the top of page 10
11 and it says there that:

12 "Some Grassy Narrows residents have
13 applied for jobs in forestry or forest
14 management but were left with the
15 impression that hiring was not really a
16 competitive process, jobs were awarded
17 by a network which Indians did not have a
18 place in."

19 Can you tell us more about that?

20 A. Well, one of the things that we found
21 out that you either have to buy a union membership in
22 order to get into the logging, in order to work in any
23 of the companies, just like in a hospital, or in a
24 pipeline or anything that goes on within our area, you
25 have to join a union, you have to pay union dues before

1 you become eligible to work in these areas, and perhaps
2 if there was a place that we can pay union dues instead
3 of having to fly all the way to B.C., I suppose that we
4 could but, you know, for \$50 it's quite a ways to go
5 and buy union fees. This is what we have been led to
6 believe.

7 Q. You're saying that it's necessary to
8 literally travel to British Columbia to join the union,
9 or maybe I'm not understanding.

10 A. To buy union fees so you can get into
11 any job opportunities that flow within our area. I am
12 talking, this also has to do with Boise, or Great Lakes
13 for that matter.

14 Q. There is also a passage near the top
15 of page 10 which refers to firefighters from southern
16 Ontario being called before Grassy Narrows people.

17 Do you have any personal recollection or
18 knowledge of that having happened recently; that is, in
19 the last few years?

20 A. That's always been an issue
21 especially for my community. We have always been
22 either wanting to engage in any summer employment and
23 we realize that, say, back in the 60s we were -- it was
24 called Department of Lands & Forests, used to utilize
25 the reserve's manpower or district manpower in order to

1 engage fighting forest fires within the area regardless
2 of what size they were, but I guess a policy has
3 changed now where they do specific training
4 requirements now and before you could get into the
5 forest firefighting unit and dues are usually brought
6 out from the outside of this territory.

7 If I call it territory, I refer to either
8 Kenora District -- Kenora/Fort Frances District or
9 either Treaty 3 territory.

10 Q. Another passage in the same paragraph
11 refers to obtaining tree planting contracts and refers
12 to elaborate paperwork and personnel networking in the
13 Ministry and corporate bureaucracies in order to obtain
14 these tree planting contracts.

15 Do you have any experience with that
16 having occurred?

17 A. Not -- very seldom. I would say that
18 it's a difficult process the way it's laid out right
19 now because, you know, in our time -- in today's terms,
20 like, it seems like we have to satisfy paper before we,
21 you know, any work is undertaken, and that's one of
22 the -- I think, you know, it's really demising our
23 efforts to keep up with, you know, any constructive
24 planning and, you know, in order to do good work in
25 anything that has to do with planning natural

1 resources.

2 Q. Further down the page in the last
3 full paragraph there's a reference to what elders say
4 about removal of the forest in the area around Grassy
5 Narrows. And the reference is to the elders saying
6 that the forest has dried -- or, excuse me:

7 "The removal of the forest has dried
8 the air and the soil and the elders say
9 that fog conditions are no longer seen
10 and in clear-cuts one cannot even hear a
11 squirrel."

12 Did you yourself speak to elders and hear
13 them say that to you?

14 A. Yes, in fact I've driven down just
15 about 30 miles north of Grassy at times just to see the
16 areas where this clearcutting has been, you know, has
17 been done where actually the land has been stripped to
18 no trees standing at all, and I think they were very,
19 very amazed that, you know, how much that type of
20 cutting has changed the land and it wasn't possible for
21 them to visualize that anything could, you know, could
22 live under those conditions and they have blamed of
23 course the adverse effects of our weather today as a
24 result of that.

25 And mostly they couldn't find any

1 rationale why other trees that are not used by pulp and
2 paper companies have to be knocked down because they
3 believe that the animals, you know, the creatures that
4 live in the forest have some use with those trees, you
5 know, we don't have any use for them, and they're very
6 sentimental in that regard.

7 And I think it's very interesting that
8 they said that, you know, why can't they use the
9 branches, why can't they use those trees, you know, to
10 convert them into fiber or any kind of product that the
11 pulp and paper companies should use them, you know, not
12 just use the -- you know, three quarters length of the
13 tree and leave the rest just to pile up and more like
14 as if it's a big potato garden way out in the bush for
15 miles and miles.

16 Q. Right at the end of the information
17 concerning Grassy Narrows at the top of page 11 in the
18 witness statement there is a reference to a perception
19 of parts of the Ministry of Natural Resources as being
20 representatives and advocates in non-Indian interests
21 and especially as allies of the forest industry and the
22 fish and game recreationists.

23 Is that your perception?

24 A. Yes, that is my perception and I have
25 reasons to believe that is true.

1 Q. What have your experiences been that
2 have caused you to think of MNR, or at least parts of
3 MNR in those terms?

4 A. Well, first of all, I think when we
5 went through this environmental disaster in terms of
6 mercury pollution we realized for the first time that
7 we stood alone and we spoke against, you know,
8 pollution and that there has to be safeguards, and
9 during those 1970s we were, you know, our people in the
10 streets were beaten, we were called names because we
11 were anti-, we were anti-campaigners against the
12 pollutants, whether it had to do with Great Lakes or it
13 was Reid International at that time, and we talked
14 about the environment and the effects upon the land,
15 the things that we wanted protected the fish.

16 You know, MNR never came on our side
17 they stuck with the negative views as if we were trying
18 to take employment off the people in the three
19 districts. I mean, we paid the price, but at the end I
20 think we have created something and we are proud of it
21 because although we were compensated very, very little
22 but we have made the environmental concerns known in
23 this country and all over.

24 Yes, we got compensation, \$16-million,
25 but that should not be the issue when the pulp and

1 paper company received 300 and \$700-million and we made
2 the most modern mill in Canada, in the world and that's
3 is Great Lakes Pulp and Paper Company, that's what made
4 that. But now the whole issue universally is
5 environment.

6 MR. COLBORNE: Those are my questions.
7 Thank you.

8 MADAM CHAIR: Thank you, Mr. Colborne.
9 Mr. Cassidy?

10 CROSS-EXAMINATION BY MR. CASSIDY:

11 Q. I'm curious as to why you would
12 consider MNR to be an ally of the fish and game
13 recreationists.

14 A. Because we don't -- because I don't
15 agree that anything -- in terms of when we save the
16 species or the animals that live on the land that's a
17 game or a sport, it's something you eat, it's something
18 you have to sustain yourself, it's not a game running
19 an animal to death or exhausting an animal, you know,
20 just for you to have a good time. That is where we
21 don't agree.

22 Q. So the fish and game recreationists
23 are fishermen and hunters and you perceive that MNR is
24 an ally of them; is that what you're saying?

25 A. Yes, I believe so.

1 Q. Okay.

2 MADAM CHAIR: Excuse me, Chief Fobister
3 and Mr. Colborne, may we interrupt to take a 10-minute
4 break.

5 CHIEF FOBISTER: Thank you.

6 MADAM CHAIR: Sorry. We'll be back in 10
7 minutes. Thank you.

8 ---Recess taken at 2:45 p.m.

9 ---On resuming at 3:10 p.m.

10 MADAM CHAIR: Please be seated.

11 Thank you, Mr. Colborne, Chief Fobister,
12 sorry.

13 MR. CASSIDY: Thank you, Madam Chair.

14 Q. Chief Fobister, you were talking
15 about red tape and I guess that was in the context of
16 applying for various approvals to do things with the
17 Ministry, and I am going to ask you about the context
18 of red tape in the context of planning for forestry.

19 And have you participated in what we call
20 here the timber management planning process open
21 houses, et cetera?

22 A. No.

23 Q. No. Are you familiar with any of the
24 paperwork that is associated with that exercise?

25 A. Yes, I believe I do.

1 Q. Any comments on the amount of it?

2 A. It's quite an exercise, I would
3 think.

4 Q. Is the word red tape applicable to
5 that too?

6 A. I believe it is. The thing of it is
7 that we firmly believe that, you know, the reason why I
8 don't participate in it or my Band has never
9 participated in it process, you just go there for an
10 approval, but I think if we were to have a say in
11 something to that -- reflecting what the forest
12 management plan that's being put before for public
13 view, the decisions we feel that have already been
14 made.

15 Q. Okay, well that's fair enough, but in
16 terms of the process and the concept of red tape, you
17 would agree with me there's an awful lot of paperwork
18 involved in this planning process to the extent that
19 you're familiar with it?

20 A. Yes.

21 Q. And would you support any efforts
22 that would be made to reduce that amount of paper, such
23 that it might help you understand the process better
24 and get better involved?

25 A. I think it would be very, very

1 beneficial for the grassroots level of people just to
2 understand.

3 Q. That would include not only your
4 people, the Grassy Narrows Band, but anyone who is
5 whose involved in the process?

6 A. Yes.

7 Q. All right. Well, at the risk of
8 talking about paper, I want to show you some and I
9 think you have copies of this in front of you, but I
10 just want to show you some documents and I want to ask
11 you about the Keys Lake area.

12 And there's an historical Pow-Wow ground
13 in the Keys Lake area; is there not?

14 A. Yes, there's a historical site there.

15 Q. Of historical significance to the
16 Grassy Narrows Band, I understand; is that correct?

17 A. That's right.

18 Q. I want to just file a letter here
19 that your Band wrote in 1988 -- May 30th, 1988 to Mr.
20 Pyzer who is the manager of MNR in Kenora and perhaps
21 what I suggest we do is mark this as next exhibit and
22 mark it as A because there's a few companion letters
23 that I want to show Chief Fobister as well.

24 MADAM CHAIR: This one page
25 correspondence will become Exhibit 1887.

1 MR. MARTEL: A.

2 MR. CASSIDY: A.

3 MADAM CHAIR: A.

4 ---EXHIBIT NO. 1887A: One-page letter dated May 30,
5 1988 from Simon Fobister to G.
6 Pyzer, Manager, MNR Kenora.

7 MR. CASSIDY: And it can be described as
8 a one-page letter from Mr. Simon Fobister, that's your
9 cousin; isn't it?

10 CHIEF FOBISTER: Yes, that's my cousin.

11 MR. CASSIDY: Q. And at the time, May
12 30th, 1988 it was written re Keys Lake and refers to
13 the historical Pow-Wow ground we just discussed and
14 it's asking for a discussion regarding that site and
15 indicating a concern that that site should be preserved
16 from any development and also indicating that there are
17 other sacred matters in that particular area that your
18 Band would like to discuss; is that correct?

19 A. That's correct.

20 Q. Okay. And as I understand it, that
21 matter was also communicated to Boise Cascade Limited,
22 and I would like to show you a letter dated July 4th,
23 1988 from Boise Cascade to Mr. Fobister, your cousin.

24 And the Keys Lake is in the Patricia
25 timber management plan; is that correct, Mr. Fobister?

A. Yes.

1 MR. CASSIDY: And if this could be marked
2 as the next exhibit, 1887B.

3 ---EXHIBIT NO. 1887B: Letter dated July 4, 1988 from
4 Boise Cascade to Simon Fobister.

5 MR. CASSIDY: Q. And this indicates that
6 Boise Cascade was prepared to address your concerns
7 regarding logging near Keys Lake, particularly near
8 that historical Pow-Wow site.

9 Just by way of interest, how long has
10 your Band known of the existence or been aware of that
11 Pow-Wow site?

12 A. It's been, say, approximately over a
13 hundred years, I would say.

14 Q. And if I could then move to the
15 Pakwash Forest and show you what appears to be a
16 comment form that your cousin Simon Fobister wrote in
17 respect to another concern of the Grassy Narrows Band.
18 (handed)

19 MR. CASSIDY: And if this could be 1887C.

20 ---EXHIBIT NO. 1887C: Comment form written by Simon
21 Fobisher re: Pakwash Forest dated
December 15, 1988.

22 MR. CASSIDY: Q. The comment form is in
23 respect of the timber management plan for Pakwash
24 Forest for April 1st, 1989 to March 31st, 2009 and
25 and in regards to travel restrictions on the Tide Road.

1 Now, you indicated that you were
2 concerned about access in response to Mr. Colborne's
3 questions about access issues with respect to your
4 Band. Is the Tide Road -- can you place that in
5 respect of your reserve area, can you tell us where
6 that's located?

7 A. The Tide Road. It's pretty hard to
8 see --

9 Q. Does it run through your reserve area
10 in some fashion?

11 A. It's connected to the points of our
12 traditional territory where we harvest.

13 Q. All right. This comment sheet is
14 dated December 15th, 1988 and it states that:

15 "We require the closure of the Tide Road
16 be indicated in the draft timber
17 management plan and we understand...",
18 indicating your cousin's understanding,
19 "...that the road is now closed but did
20 not see any indication of it in the draft
21 plan."

22 And if I could then move to a comment
23 sheet dated January 4th, 1989 which your cousin Mr.
24 Fobister wrote in respect of another concern of the
25 Grassy Narrows Band.

1 MR. CASSIDY: If that could be marked as
2 Exhibit 1887D. (handed)

3 ---EXHIBIT NO. 1887D: Comment sheet dated January 4,
4 1989 from Simon Fobister.

5 MR. CASSIDY: Q. And this was in regard
6 to -- going back to the historical site on Keys Lake
7 for the Patricia timber management plan, and if I can
8 read the writing with you, it states that:

9 "It appears that the cutting on the
10 shoreline of the Lake Trout Lake
11 condition will be sufficient to protect
12 the spirit rock that is situated on the
13 southwest corner of Keys Lake."

14 Now, is that a different place from the
15 Pow-Wow site?

16 A. It's adjacent to the Pow-Wow site, I
17 believe it's just right across the lake, the same
18 territory.

19 Q. All right. And this comment sheet
20 also indicates that to protect your Band's lodge
21 situated on Ball Lake,

22 "...we would prefer the harvest of the
23 poplar stands take place only as a last
24 resort. We don't want any more access
25 roads coming near the lodge."

1 This is part of the access concerns that
2 you indicated to Mr. Colborne that your Band has?

3 A. Yes, I believe so.

4 Q. And can you tell me about that lodge;
5 is that a tourist lodge?

6 A. Yes, it was the lodge that was closed
7 in 1972. It used to be formally known as Barnie's Ball
8 Lake Lodge, closed down because of the mercury
9 pollution in 1972.

10 Q. And what's the present status of it?

11 A. It's been turned over to the Band, it
12 was bought -- it was bought by the two levels of
13 government for the Band and we are trying to revise it
14 now.

15 Q. I see. And that's why you wanted
16 access roads dealt with, to protect it -- or, I'm
17 sorry, harvesting of the poplar dealt with, to protect
18 that lodge?

19 A. Yes.

20 Q. All right.

21 A. Not only that, but we look at poplar
22 trees as the -- we currently envision them as they
23 protect, you know, forests from spreading in the event
24 that there's a forest nearby then it protects it, the
25 poplar stands. The more poplar stands there are, the

1 safer a community they would be because there isn't
2 that, when you look at spruce and anything else just
3 adjacent to that, provides the fuel for fires to spread
4 rapidly.

5 Q. Oh, I see. So you saw this as a form
6 of fire protection to the area?

7 A. Yes, instead of having to cut an
8 area, you know, a fire line as they may call it.

9 Q. Yes, okay. I want to show you a
10 letter then dated January 9th, 1989 to your Band and
11 specifically to your cousin Simon Fobister...

12 MR. CASSIDY: Which we could mark as
13 Exhibit 1887E. (handed)

14 ---EXHIBIT NO. 1887E: Letter dated January 9th, 1989 to
15 Simon Fobister of Grassy Narrows
Band.

16 MR. CASSIDY: Q. And it deals with the
17 comments on the timber management plan regarding the
18 travel restrictions on the Tide Road, and you will note
19 that:

20 "It will be stated in the use
21 management strategies for the Tide
22 Road...", that's in this letter 1887E:

23 "...that there will be travel
24 restrictions."

25 And then suggesting that you contact the

1 Ministry for information on dates and signs, et cetera.

2 And if I could then show you a letter
3 dated January 30th, 1989 (handed) which would be
4 Exhibit 1887F, which also deals with the Keys Lake
5 site, and I want to ask you a question about it.

6 ---EXHIBIT NO. 1887F: Letter dated January 30, 1989
7 re: Keys Lake site from G. Pyzer
to Simon Fobister.

8 MR. CASSIDY: Q. This is the letter from
9 Mr. Pyzer to your cousin on behalf of the Band and it
10 confirms that the comments in the Patricia timber
11 management plan that you made -- or, sorry, that your
12 cousin made on behalf of your Band have been considered
13 by Boise Cascade, and he also states that:

14 "The spirit rock on Keys Lake will be
15 provided adequate protection by the nine
16 millimetre shoreline reserve that is to
17 be left around the lake."

18 Now, am I correct that that went around
19 the whole lake, that reserve?

20 A. I believe it's about -- you can be
21 looking at it almost half.

22 Q. Okay.

23 A. I'm not too good on millimetres.

24 Q. All right. Did the spirit rock and
25 the Pow-Wow site both fall within that reserve?

1 A. Yes. There's sort of -- just if you
2 wanted me to elaborate what the significance of the
3 spirit rock.

4 Q. Go ahead.

5 A. As you know the Keys Lake was the
6 main stop point when people used to migrate and trade
7 together and it was also an accessible route when the
8 railway was built in the territory, the tribes used to
9 meet there to have a Pow-Wow and the rock that is there
10 is absolutely flat and it's got a very strange
11 formation.

12 Now, there's a certain point that when
13 you canoe across the lake and you observe that rock
14 site there just by the cliffs there, there is a large
15 crack within the rock, just on an even level, and you
16 get into a certain location you see as if somebody is
17 looking at you through the rock, and it's really quite
18 an interesting site, but actually it's just a rock that
19 is way underneath about the size of a head, a rock that
20 is way inside the cracked rock and that's why people
21 always looked at it as: There's the Indians that are
22 still there that used to be spiritual leaders in this
23 Pow-Wow ground, they're still watching over the area.

24 Q. Okay. Following up with a letter to
25 your Band dated February 7th, 1989 which could be

1 Exhibit 1887G (handed) which is from Mr. Baird,
2 Superintendent of Planning Development of Boise Cascade
3 to your cousin on behalf of the Band.

4 ---EXHIBIT NO. 1887G: Letter dated February 7, 1989
5 from Mr. Baird, Superintendent of
6 Planning Development of Boise
7 Cascade to Simon Fobister.

8 MR. CASSIDY: Q. And it indicates that
9 this letter is a follow up to the use management
10 strategies on the Tide Road and it indicates that:

11 "A year-round travel restriction will
12 be in force and that travel will be
13 limited to individuals involved in
14 resource related activities."

15 And it also indicates restrictions on
16 recreational use. And is this what you were looking
17 for to go into the timber management plan in order to
18 address the access concern with respect to that
19 particular situation?

20 A. Yes. As you know, that Tide Road,
21 you know, I guess what we are doing here is trying to
22 sell the lodge as a fly-in fishing camp.

23 Q. A remote tour outfitter type camp?

24 A. Right.

25 Q. Right. And the final letter in this
chronology, which we could mark as Exhibit 1887H

1 (handed), is a letter dated -- I'm sorry, a memo dated
2 February 9th, 1989 written by Mr. Jack Harrison who is,
3 I'm advised, a Patricia forester with Boise Cascade
4 (handed) in which he refers to a conversation he had
5 with you and your cousin Simon Fobister regarding the
6 are Keys Lake Indian burial grounds and the Pow-Wow
7 site.

8 ---EXHIBIT NO. 1887H: Memo dated February 9, 1989
9 from Mr. Jack Harrison.

10 MR. CASSIDY: Q. And he indicates that he
11 spoke to you on February 9th regarding that area, and
12 it indicates that:

13 "However, a south facing cliff on Keys
14 Lake is sacred to them and is in the
15 vicinity of Block 323."

16 Is that the cliff you were just talking
17 about?

18 A. Yes.

19 Q. All right. And it was explained to
20 the Chief, to you, that we would not be operating near
21 this sacred cliff and the Chief agreed his concerns
22 were satisfied. Do you agree with that?

23 A. Yes.

24 Q. With respect to these particular
25 concerns then, would you agree that the concerns that

1 were indicated by your cousin, Mr. Fobister -- Simon
2 Fobister as well as yourself with respect to the sacred
3 cliff were addressed in the planning process?

4 A. I believe so. It took a long time.

5 Q. Well, we go back to that paperwork we
6 were talking about, right.

7 A. Yeah.

8 Q. And would you agree that they were
9 addressed satisfactorily?

10 A. I believe, yeah, in the sense, you
11 know, it was.

12 Q. Okay. Is there anything else you
13 wish to add about that?

14 A. No.

15 Q. The other matter I wanted to bring to
16 your attention and deal with, and I believe I've also
17 provided you with copies of these matters, and what I
18 suggest we do is start again with a new exhibit and
19 mark this as Exhibit 1888A.

20 MADAM CHAIR: How many separate exhibits
21 do you have there, Mr. Cassidy?

22 MR. CASSIDY: Approximately the same
23 number, Madam Chair, seven or eight.

24 MADAM CHAIR: I will remind you that the
25 Board is asking that when we receive a flurry of paper

1 such as this we like to have a typed exhibit list so we
2 can enter it into our books and not waste our time
3 writing down long numbers and descriptions of exhibits.

4 MR. CASSIDY: Fine. I'm prepared to
5 provide you with that at a later date if you wish.

6 MADAM CHAIR: I think we've got our own
7 writing up to date right now.

8 MR. COLBORNE: It might be of assistance
9 to Mr. Cassidy to know that the witness read this
10 material within the last hour I think, and that won't
11 interfere with his cross-examination, but that might
12 assist him in shortening it a bit.

13 I do believe that the witness is quite
14 familiar with it.

15 MR. CASSIDY: Thank you, Madam Chair.
16 Perhaps what I can suggest is that you not make a note
17 of the names of the matters and I can provide you with
18 that at a later date.

19 MADAM CHAIR: All right, that's what we
20 will do, Mr. Cassidy. Thank you.

21 MR. CASSIDY: Thank you. If we can mark
22 the first document as Exhibit 1888A, which is an
23 Order-In-Council licence for your Band.

24 ---EXHIBIT NO. 1888A: Order-In-Council licence re:
25 Grassy Narrows Band.

1 MR. CASSIDY: Q. You're familiar with
2 the fact that your Band does have an Order-in-Council
3 licence dated February 13th, 1974? You're familiar
4 with this Order-in-Council licence?

5 A. Actually this is the first time I saw
6 it here.

7 Q. You know that this Order-in-Council
8 licence exists?

9 A. Yeah, there was something like that,
10 yes.

11 Q. All right. And it was for the
12 cutting of the particular amounts of timber in the
13 amounts indicated on pages 1 and 2; correct?

14 A. Yes.

15 Q. Okay. With respect to that, do you
16 know Harold Macdonald?

17 A. Yes.

18 Q. He's the economic -- or was the
19 economic advisor of your Band; is that correct?

20 A. That's correct.

21 Q. And on June 21st, 1988 he wrote a
22 letter to Boise Cascade --

23 MR. CASSIDY: Which we can now file and
24 mark as Exhibit 1888B.

25 MR. MARTEL: We didn't get the other one.

1 MADAM CHAIR: Can we have 1888A, Mr.
2 Cassidy.

3 MR. MARTEL: You didn't give us anything.

4 MR. CASSIDY: Oh, I apologize, Madam
5 Chair. (handed)

6 MADAM CHAIR: Thank you.

7 MR. MARTEL: Thank you.

8 MR. CASSIDY: 1888B, being a letter to
9 Mr. Prebble indicating that discussion regarding
10 planned cutting areas in the proposed Sunshine Road,
11 and that you wish to reinstate your logging operation.
12 ---EXHIBIT NO. 1888B: Letter to Mr. Prebble re: planned
13 cutting areas in proposed
Sunshine Road.

14 MR. CASSIDY: Q. I take it that there
15 was some interruption in the logging operation at some
16 point between January -- between 1974 and 1988. Are
17 you familiar with that?

18 A. Disruption, did you say?

19 Q. Interruption, or stop -- you stopped
20 your logging operations at some point between 1974 and
21 1988?

22 A. Yes, there was, yeah.

23 Q. All right. And this letter refers to
24 a reinstatement of a logging operation that you wished
25 to do and that there was a meeting going to be set up.

1 A. Yes.

2 Q. You were the --

3 A. It was more than that, actually.

4 Q. All right, go ahead.

5 A. There was proposed plans to log these
6 areas which are just adjacent to the community.

7 Q. Yes.

8 A. And we wanted to be given some
9 priority in terms of disposition of these cutting
10 areas.

11 Q. And you were the Chief at that time?

12 A. Yes.

13 Q. And if I can then provide you with
14 Exhibit 1888C, as a letter dated June 28th, 1988
15 (handed) from Mr. Prebble of Boise Cascade replying Mr.
16 Macdonald and confirming that a meeting could be set up
17 to discuss that.

18 ---EXHIBIT NO. 1888C: Letter dated June 28, 1988 from
19 Mr. Prebble to Mr. Macdonald.

20 MR. CASSIDY: Q. And regarding your last
21 comment, do you agree that he was prepared to discuss
22 potential logging opportunities for your Band as
23 indicated in point No. 1 of this letter?

24 A. Yes.

25 Q. All right. And filing Exhibit 1888D,

1 which is a letter dated July 4th, 1988 from Mr.
2 Macdonald to Mr. Prebble thanking him for his letter of
3 June 28th, and setting the meeting for July 14th, 1988.

4 ---EXHIBIT NO. 1888D: Letter dated July 4, 1988 from
5 Mr. Macdonald to Mr. Prebble.

6 MR. CASSIDY: Q. And I know this may be
7 difficult for you to remember, but do you recall being
8 at that meeting?

9 A. Yes, very well.

10 MR. CASSIDY: All right. If I can just
11 have your indulgence, Madam Chair, for a second.

12 Q. Now, your Band has a corporation, a
13 development corporation called --

14 A. Keena-chit-a-win.

15 Q. Thank you. And that is -- can you
16 just describe to me what that corporation does; what's
17 its responsibilities?

18 A. It's an economic development
19 corporation. It's economic development, that's all it
20 does, that is its business.

21 MR. CASSIDY: All right. And if I can
22 file then a letter from your Band and that corporation
23 dated February 16th, 1989 as Exhibit 1888E. (handed)

24 ---EXHIBIT NO. 1888E: Letter dated February 16th, 1989
25 from Grassy Narrows Band to Mr.
Prebble.

1 MR. CASSIDY: February 16th, 1989 is the
2 date of the letter addressed to Mr. Prebble again at
3 Boise Cascade asking for permission to cut timber And
4 asking for timber that is accessible for logging during
5 summer months.

6 1888E, Mr. Martel. I will provide you
7 with a list.

8 Q. And this is Bill Fobister who signed
9 this. Is that any relation -- is that gentleman any
10 relation to you?

11 A. He's the administrator of the
12 corporation. Just administrator, he works for the
13 corporation.

14 Q. And were you Chief in February 16th,
15 1989 of the Grassy Narrows Band?

16 A. No.

17 Q. The letter indicates that the area
18 that the Grassy Narrows Band is logging in as of the
19 date of this letter, the traditional block, is
20 unsuitable to summer access due to the number of low
21 grounds and swamp areas. Do you have any comment on
22 that?

23 A. Yes.

24 Q. Go ahead.

25 A. Well, as you look at it in the areas

1 where they were cutting, it's mostly -- it's a marsh
2 area and you can't really haul, you know, heavy loads
3 out of a marsh and it's a very muddy area and that is
4 what made it so difficult, and they really had a tough
5 time with that.

6 Q. They being your Band's logging
7 operation?

8 A. Yes.

9 Q. And is that what gave rise to the
10 letter that we just referred to, Exhibit 1888 --

11 MADAM CHAIR: E.

12 MR. CASSIDY: E, I apologize.

13 Q. It was those concerns with
14 operability that led to that letter; is that correct?

15 A. Yes.

16 Q. All right. If I could then refer you
17 to Exhibit 1888F, (handed), which is a letter dated
18 February 22nd, 1989 from Boise Cascade to the Ministry
19 of Natural Resources following up on your request
20 contained in Exhibit 1888E and it indicated that your
21 Band has requested a harvesting area for March 1st,
22 1989 and proposing a course of action to accommodate
23 that.

24 ---EXHIBIT NO. 1888F: Letter dated February 22, 1989
25 from Boise Cascade to MNR.

1 MR. CASSIDY: Q. Do you recall these
2 discussions about the activities that are proposed in
3 this letter?

4 A. Yes, somewhat, yes.

5 Q. All right. Do you have any comments
6 on them?

7 A. No.

8 Q. As I understand it, those discussions
9 led to an agreement which I am producing to you now in
10 the form of 1888G between - I can't say the
11 corporation, I apologize - but your Band's corporation
12 and Boise Cascade (handed), and it's an agreement dated
13 March 1, 1989, and Mr. Colborne indicates you had an
14 opportunity to review this material.

15 ---EXHIBIT NO. 1888G: Copy of agreement dated March 1,
16 1989 between Grassy Narrows Band
and Boise Cascade.

17 MR. COLBORNE: I should have been more
18 careful. I know that the witness reviewed whatever Mr.
19 Cassidy gave me two weeks ago, but I'm not certain
20 whether this particular document or any particular
21 document was in that material, I simply passed it on to
22 the witness.

23 MR. CASSIDY: I spoke to the witness at
24 the break and he confirmed that he did receive this
25 material and the collection I have got.

1 Q. Have you had a chance to review this
2 agreement?

3 A. No. In fact, I have made a phone
4 call to the corporation, you know, to talk with the
5 individual that signed this agreement.

6 Q. Okay.

7 A. Unfortunately I can say for a fact he
8 does reside on the reserve but he's not a member of the
9 Band.

10 Q. Right. I was going to ask you to
11 indicate whether or not this agreement addressed the
12 concerns in Mr. Bill Fobister's letter of February
13 16th, 1989 and in fact accommodated the Band's desire
14 to have a better piece of area to operate on?

15 Now, if you need time to discuss that
16 with somebody, I would be more than happy --

17 A. Yes, I have to be frank here. The
18 corporation is not -- it is owned by our shareholders
19 of the Band, but it's not a Band, it's a corporation.

20 Q. Fine.

21 A. It's not the government of the Band.

22 Q. Right.

23 A. That's part of this, it's --

24 Q. Are you able to indicate whether or
25 not this Band -- I'm sorry, this agreement

1 satisfactorily or not addressed the concerns raised by
2 Mr. Bill Fobister in his February 16th, 1989 letter?

3 A. It addresses the concerns from the
4 corporation's point of view, but from the Band's point
5 of view, no.

6 Q. So there was a conflict between the
7 Band and the corporation?

8 A. Yes.

9 Q. Can you describe that for me, the
10 nature of that conflict?

11 A. First of all, the corporation
12 operates independently from the Band and they have
13 their own mandate.

14 On the basis that they are shareholders,
15 what they do is they have their own Board of Directors
16 which is directed by the people of the Band and they
17 have an absolute -- their own mandate to carry out
18 their own operations as to what they see fit for the
19 corporation, not necessarily to the desire of the
20 government of Grassy.

21 Q. My understanding is that this
22 corporation is designed to provide employment
23 opportunities through economic development to Band
24 members; is that correct?

25 A. Yes. Band members or anybody that

1 they feel could produce anything on behalf of the Band.
2 They look more at production, they're not -- they look
3 at, you know, how qualified you are.

4 Q. And my understanding is that the
5 corporation's profits, if any, would accrue to the
6 Band; is that correct?

7 A. It was designed by the federal
8 government, as you well know it, it was not designed by
9 the Band.

10 Q. So let me understand something, when
11 Mr. Bill Fobister wrote his letter of February 16th,
12 1989, was he writing with the approval of the Band or
13 was he operating independently?

14 A. He was operating with approval of the
15 Band and Band council resolution would have otherwise
16 accommodate this contract or the letters that he
17 would -- that he would otherwise has the full support
18 of the Band.

19 Q. So that was written with the support
20 of the Band then when he raised that concern?

21 A. No.

22 Q. All right. The Band did not have
23 that concern?

24 A. The Band might have expressed that
25 concern and went with it.

1 Q. Does the corporation carry on the
2 work; that is, of harvesting and logging that is
3 permitted under the Order-in-Council licence that I
4 filed earlier as Exhibit 1888A?

5 A. Not with this one, no. The former
6 company that operated under the licence went bankrupt
7 and in order to maintain the licence and maintain the
8 occupation of cutting areas within -- on the sake of
9 the Band, they stepped in more or less to help out
10 otherwise Boise would then turn it over to somebody
11 else.

12 Q. Okay. And as a result then, there
13 was no one else operating under the Order-in-Council
14 licence that I filed on your behalf, there was no one
15 else operating in 1989--

16 A. No.

17 Q. --under that licence?

18 A. No.

19 Q. All right. So the only people that
20 Boise could have dealt with was this Band then, this
21 corporation; is that correct?

22 A. Yes. At that time, yes.

23 Q. Can you make inquiries to determine
24 if that agreement satisfied the concerns indicated by
25 Mr. Bill Fobister in his letter, and if I can get a

1 response to that when you're on Panel 6 I may
2 cross-examine on it or I may not.

3 A. Are you asking me?

4 MR. CASSIDY: Well, Mr. Colborne may want
5 to have a comment there.

6 MR. COLBORNE: I think if I could just
7 ask the witness something that I would require
8 clarification on.

9 Do you think it would be possible today,
10 if there is a break, to reach the person who would give
11 you the information that you need?

12 CHIEF FOBISTER: I believe so. I
13 would -- probably if it's the panel or the Board would
14 accept anything through all facts as an exhibit, or a
15 true document I would probably get something in that
16 nature.

17 MR. CASSIDY: If there's a written
18 response that's positive it's going to be difficult for
19 me to cross-examine, but I'll take that and we will go
20 from there.

21 MR. COLBORNE: The undertaking will be to
22 try to get it by telephone, if we have a break. If
23 not, we will do our best to get some kind of written
24 response to the inquiry.

25 MADAM CHAIR: Thank you, Mr. Colborne.

1 MR. CASSIDY: Q. Do you know if that
2 area was operated in the summer?

3 A. It was sort of operated I believe
4 just around April, May or somewhere in that end. I
5 seem to recall that they did -- they did operate --
6 you're specifically talking about that fish lake
7 operation, was it?

8 Q. Maybe what you can do when you make
9 that inquiry is to ask that question as well, since you
10 seem unsure. And I take it it did provide employment?

11 A. Yes, for a short period of time. I
12 would say about -- it's very little much -- it wasn't
13 that very much, it's only 2,400 cords. So I think they
14 only -- they spent more time getting it out I know than
15 the amount of time that they cut it, it was two, three
16 weeks that maybe.

17 Q. That's fine. Just a couple of
18 questions on geography. The Grassy Lake Band is about
19 45 miles from Kenora; is that right, the reserve?

20 A. 45 miles? It's 56.

21 Q. 56 miles.

22 A. Yes.

23 Q. How long would that take for somebody
24 to commute to?

25 A. It would be about an hour and a half

1 by road, by plane it's 35 minutes.

2 Q. So it's an hour and a half drive from
3 the reserve?

4 A. That's to Kenora.

5 Q. Right.

6 A. Yes.

7 Q. Do any of the band members living on
8 the reserve commute to any job in Kenora?

9 A. I guess I could be the only one of
10 them. I had a job in Kenora, but there's people who
11 have jobs in Grassy who live in Kenora and commute
12 every day.

13 Q. Yes. I was talking about the people
14 who live on the reserve. You're the only one who lives
15 on the reserve and commutes to Kenora?

16 A. No. Prior to my job as Grand Chief I
17 worked for the Government of Ontario for eight years
18 and I commuted from Grassy to Kenora, but you're
19 talking about, you know, having a good wage in order to
20 pull that off.

21 MR. CASSIDY: Those are my questions.
22 Thank you, Madam Chair.

23 MADAM CHAIR: Thank you.

24 Ms. Gillespie?

25 MS. GILLESPIE: I have no questions.

1 MADAM CHAIR: Thank you.

2 Mr. Freidin?

3 CROSS-EXAMINATION BY MR. FREIDIN:

4 Q. Chief Fobister, one of the documents
5 which was filed, Exhibit 1887, refers to the Ball Lake
6 Lodge and indicates the desire of the Band that that
7 area near the lodge and on that part of the river
8 system remain remote; correct?

9 A. That's correct.

10 Q. Am I correct that as a result of the
11 Band's concern about that area being remote that a zone
12 was set up which in fact closed an area to non-resident
13 camping on the English River system?

14 A. Yes, that was the approach that we
15 made.

16 Q. Right. And that was done in order to
17 protect the Band's tourist operations at the Ball Lake
18 Lodge and your outpost camps?

19 A. Yes.

20 Q. And that was done in conjunction with
21 the office, the Ministry office in Kenora?

22 A. You can say that. They've got
23 specific orders from Queen's Park, if I can remember.

24 Q. All right. But in any event, that
25 occurred?

1 A. Yes.

2 Q. I also understand that you have set
3 up a number of outpost operations on the English River
4 system?

5 A. Yes, as you would call them,
6 designated areas for non-residents to own the camp in
7 those specific areas.

8 Q. Do I understand that your Band
9 actually operates outpost camps, places where you take
10 tourists to spend time fishing or whatever?

11 A. Yes.

12 Q. And am I correct that before that was
13 set up that the Band, along with the Ministry of
14 Natural Resources, flew to Lac Seul, met with people,
15 the Chief at the Lac Seul Band in order to become
16 familiar with those sorts of operations?

17 A. There was no Chief of Lac Seul Band
18 that was operating anywhere over there those type of
19 arrangements. It was a private individual out of Sioux
20 Lookout that was doing it.

21 Q. All right.

22 A. It's a camp operator to begin with.

23 Q. All right. Did somebody from the
24 Band then, along with MNR from Kenora District actually
25 go together to --

1 A. I was the one that went there.

2 Q. Right. And the purpose of that trip?

3 A. Was to look at how their operational
4 system worked and looking at it as a possible model for
5 our own operations in our own area.

6 Q. And as a result of that joint trip,
7 did you in fact use what you saw as a model?

8 A. We tried to use that as a model, yes.

9 Q. And do you have marina type facility
10 somewhere south of Barnie Ball's Lodge?

11 A. We have it located adjacent, just off
12 the reserve, not very far -- you know, you might as
13 well say the reserve, but we have acquired the lands
14 specifically for that marina.

15 Q. I understand that the facility that
16 has been constructed there includes docking, parking
17 and a store?

18 A. Yes.

19 Q. And when was that facility opened?

20 A. I believe it opened about four years
21 ago.

22 Q. And am I correct that the district
23 manager from Kenora and land supervisor for Kenora were
24 invited to attend that opening?

25 A. Yes.

1 Q. And I actually understand that Gord
2 Pyzer the district manager was asked to cut the ribbon?

3 A. Yes.

4 Q. Why?

5 A. Well, it was more or less I guess a
6 gesture of, you know, good will and friendship.

7 Q. Mr. Pyzer I understand had been
8 involved in arranging some of these meetings going to
9 Lac Seul and that sort of thing?

10 A. Yes, he did.

11 Q. Have you worked with Mr. Pyzer on
12 other sorts of projects other than the ones we just
13 discussed?

14 A. I guess we have worked with him on
15 the basis -- particularly for Grassy, we worked on the
16 basis because Grassy is engaging currently special
17 negotiating process with the Province of Ontario, as
18 you know it. It's a long-standing issue which since
19 1974, so we have that memorandum of understanding that
20 we work together.

21 Q. Now, just one last question. Mr.
22 Cassidy was asking you about the request of Boise to
23 get an area where you could harvest in the summer, and
24 he's indicated that there was an area which was wet and
25 it was difficult to get the wood out.

1 Am I correct that the area that you were
2 operating in where it was swampy or was wet, was a good
3 area to operate in the winter and just wasn't a very
4 good area to operate in the summer?

5 A. That's -- we are -- as you look at it
6 different, that's the reason why we couldn't make out
7 with the former company operating in the Start Lake
8 area because we seem to end up with all the swamps.

9 Q. Right. So the Start Lake area, which
10 was the area which was part of the Order-In-Council
11 licence--

12 A. Yes.

13 Q. --was an area where you had
14 difficulty -- you had no problems operating in the
15 winter?

16 A. No.

17 Q. But you couldn't operate in the
18 summer?

19 A. No, you can't operate in the summer.

20 Q. Right. And so the idea of going to
21 Boise was to have an area where you could operate in
22 the summer as well?

23 A. Yes.

24 MR. FREIDIN: Thank you.

25 MADAM CHAIR: Mr. Colborne?

1 RE-DIRECT EXAMINATION BY MR. COLBORNE:

2 Q. The various activities which Mr.
3 Cassidy and Mr. Freidin questioned you about, including
4 the Order-in-Council licence, the much later agreement
5 of 1989 between Boise and the corporation, the
6 participation of members of the Ministry of Natural
7 Resources in various undertakings of the Band, do you
8 believe as a former Chief of the Band that those things
9 would have occurred or would have occurred in the same
10 way if it had not been that this was the famous Grassy
11 Narrows that had suffered the pollution problem?

12 A. I truly believe that that's our
13 strength, at least we've had some provisions under that
14 agreement because of the Wabigoon/English River mercury
15 pollution issue.

16 If that hadn't been a fact, we've only
17 became to be known because of that issue -- when that
18 issue arised, before that we were absolutely -- we were
19 not, you know, not even known we existed up in the
20 north.

21 MR. COLBORNE: That is my re-examination.
22 Thank you.

23 MADAM CHAIR: Thank you, Mr. Colborne.

24 MR. FREIDIN: Madam Chair, I was just
25 wondering before we finished this panel, I provided

1 members of the counsel here and the Board with copies
2 of the interrogatories that I wanted to file.

3 MADAM CHAIR: That's right, you did.

4 MR. FREIDIN: We never did mark them as
5 an exhibit.

6 MADAM CHAIR: Why don't we give them an
7 exhibit number now.

8 MR. FREIDIN: All right. There really
9 were two packages, one was the larger package which
10 contains MNR interrogatories and the answers thereto in
11 relation to the following questions to Grand Council
12 Treaty No. 3, Panel 3: Those interrogatories are Nos.
13 2 to 8 inclusive and 10-26 inclusive.

14 MADAM CHAIR: This will be Exhibit 1889.
15 Do you want it to be A and B, Mr. Freidin, or together
16 one package?

17 MR. FREIDIN: You can make it one
18 package.

19 MADAM CHAIR: All right.

20 MR. FREIDIN: So add to this exhibit the
21 question and the answer to Ministry of the Environment
22 Interrogatory No. 5 for Grand Council Treaty No. 3,
23 Panel 3.

24 ---EXHIBIT NO. 1889: MNR Interrogatory Question Nos.
25 2-8 and 10-26 inclusive and
responses thereto, and MOE

1 Interrogatory Question No. 5 re:
GCT No. 3, Panel 3.

2 MR. CASSIDY: Madam Chair, if I might
3 just ask a quick question on the exhibit that's been
4 referred to by almost every witness as a photomosaic.

5 Mr. Pascoe and I had some discussions
6 about what that number is, and I think it's Exhibit
7 1850, and I wonder if you would be able to confirm that
8 or not.

9 MADAM CHAIR: I've started a new hearing
10 book, but I will look at it very shortly.

11 MR. CASSIDY: I apologize, Madam Chair, I
12 just was not here when that was entered and the
13 transcript I don't believe is available for that date.

14 Thank you very much.

15 MADAM CHAIR: We'll look at it, thank
16 you.

17 Chief Fobister, the Board thanks you for
18 coming to give us your evidence on witness No. 3 of
19 Grand Council Treaty 3's case.

20 But you are going to stay, I understand,
21 and we are going to hear more evidence from you for
22 Panel 6.

23 CHIEF FOBISTER: Thank you.

24 MADAM CHAIR: And, Mr. Colborne, I guess
25 we have to have a discussion about where we go from

1 here. It's four o'clock, and do you have any
2 suggestions about how you would like to proceed with
3 your evidence?

4 MR. COLBORNE: I discussed with the
5 members of Panel 4 my current thinking -- excuse me,
6 Panel 6 my current thinking about how we might proceed
7 and I have suggested, and let me put it this way, They
8 haven't disagreed, that the examination-in-chief could
9 be very brief, and I had the idea of restricting it
10 almost entirely to the points that you raised at the
11 scoping hearing and simply ask for some elaboration
12 from them or some further explanation on those points,
13 and then I would turn it over for cross-examination.

14 In other words, I do not believe that my
15 case would be prejudiced by proceeding in an
16 abbreviated fashion with Panel 6 evidence, so it may be
17 possible to start it and finish it today with an
18 evening session, but I don't know.

19 This depends on part on how much
20 cross-examination is anticipated.

21 MADAM CHAIR: Well, thank you for
22 offering to keep your examination-in-chief very brief,
23 Mr. Colborne. You will in no way be prejudiced by
24 doing that.

25 Mr. Cassidy, you are not cross-examining

1 on Panel 6 unless something should arise?

2 MR. CASSIDY: (nodding affirmatively)

3 MADAM CHAIR: And Ms. Gillespie?

4 MS. GILLESPIE: We do have a

5 cross-examination planned which I think would probably

6 take half an hour.

7 MADAM CHAIR: Thank you.

8 Mr. Freidin?

9 MR. FREIDIN: I think I better stick with
10 the estimate I had yesterday.

11 MADAM CHAIR: Which is...?

12 MR. FREIDIN: Which is one to three
13 hours. I think -- I mean, if these witnesses speak for
14 half an hour - I don't know how long it's going to
15 take - I would say if they speak for an hour, I'm going
16 to be an hour and a half.

17 It's really difficult for me to estimate,
18 but I'll do my best to end it.

19 MADAM CHAIR: All right.

20 MR. FREIDIN: As quickly as possible.

21 MADAM CHAIR: Mr. Colborne, if it's
22 convenient and possible for your witnesses, the Board
23 would like to sit this evening. I know that your
24 witnesses are very tired.

25 Would it be convenient to take a dinner

1 break now, or would you prefer to proceed with some
2 examination-in-chief?

3 MR. COLBORNE: I would prefer to begin
4 now, if I could, because that will give me a better
5 idea of how long the examination-in-chief is going to
6 take and probably Mr. Freidin will be able to more
7 easily assess how long his cross-examination will be if
8 we get a start with it.

9 MADAM CHAIR: And are you examining five
10 witnesses for Panel 6?

11 MR. COLBORNE: Yes, there will be four.

12 MADAM CHAIR: Four. Thank you.

13 MR. COLBORNE: The evidence will come
14 primarily from one principal witness being Grand Chief
15 Fobister.

16 MADAM CHAIR: We have to check with the
17 court reporter to see how we're doing.

18 ---Discussion off the record

19 MADAM CHAIR: All right. Let's proceed
20 then, Mr. Colborne.

21 MR. COLBORNE: Thank you.

22 The witnesses are Grand Chief Fobister,
23 Area Tribal Chief Brian Perrault, Area Tribal Chief
24 Kelvin Chicago and the third Area Tribal Chief, George
25 Kakeway, is unable to attend today but he has asked Mr.

1 Sonny McInnes who is the Executive Director of Grand
2 Council Treaty 3 and, in that position, has access to
3 information concerning the policies of the organization
4 for him.

5 So I will ask those four individuals to
6 come forward.

7 Grand Chief Fobister is on the telephone,
8 I'm sure attempting to satisfy his undertaking given a
9 few moments ago. In the meantime, if the Area Tribal
10 Chiefs Mr. Perrault and Mr. Chicago might be sworn or
11 affirmed or proceed with advising the Board as to how
12 they feel bound with respect to the evidence which they
13 are about to give.

14 MADAM CHAIR: I think Chief Chicago has
15 already been sworn.

16 MR. COLBORNE: That's correct.

17 MADAM CHAIR: As has Chief Fobister who
18 has used his traditional means, and so it's entirely up
19 to Chiefs Perrault and Mr. --

20 MR. COLBORNE: Mr. McInnes.

21 MADAM CHAIR: McInnes.

22 MR. COLBORNE: I apologize, I don't have
23 a name placard for Mr. McInnes because he's here
24 filling in for Area Tribal Chief Kakeway.

25 MADAM CHAIR: Shall I simply ask whether

1 you affirm that you tell this Board the truth, Mr.
2 Perrault?

3 CHIEF PERRAULT: Yes.

4 MADAM CHAIR: Mr. McInnes?

5 MR. MCINNES: I guess with all due
6 respect to the Board here I, like my Grand Chief here,
7 am a firm believer in my culture and in my traditions.
8 I follow the same path he does in terms of our worship
9 to our creator.

10 On that basis, understanding, my
11 allegiance to my people is with trust, with love, so
12 that's how I will present myself to the Board today.

13 MADAM CHAIR: Thank you very much, Mr.
14 McInnes.

15 CHIEF PERRAULT: And in that same
16 fashion, when the Grand Chief returns he will have the
17 eagle feathers at this table, that's the same as was
18 affirmed by the previous chiefs.

19 MADAM CHAIR: All right. Thank you,
20 Chief Perrault.

21 GRAND CHIEF STEVE FOBISTER,
22 CHIEF BRIAN PERRAULT,
23 SONNY MCINNES, Affirmed
24 CHIEF KELVIN CHICAGO, Recalled

25 MADAM CHAIR: Shall we give the witness
statement for Panel 6 an exhibit number, 1890.

1 MR. COLBORNE: Thank you.

2 ---EXHIBIT NO. 1890: Witness statement for GTC No. 3
3 Panel No. 6.

4 MR. COLBORNE: Madam Chair, as I have
5 done at the beginning of the various panels of Treaty 3
6 evidence, I have said a few words just to advise the
7 Board as to where the evidence about to be heard fits
8 into the wider scheme of things, and perhaps I will do
9 that just now.

10 I don't think it is essential that the
11 principal panel of the witness be here because, of
12 course, what I say is not evidence, what he says is,
13 and he will be back in a moment when he completes his
14 efforts to obtain the information that Mr. Cassidy
15 asked for.

16 MR. CASSIDY: He's back.

17 MR. COLBORNE: Oh, here he is.

18 And since he is back, I won't continue
19 just now, but I believe I will ask Area Tribal chief
20 Perrault if he had anything further to say now that the
21 eagle feather is at the table.

22 CHIEF PERRAULT: Yes. For the benefit of
23 the Board I had a couple of comments that I would like
24 to make with regard to our presence here as tribal
25 chiefs and with our Grand Chief.

1 We also intended to have with us elders
2 from each of the tribal areas and, unfortunately,
3 because of the schedule that we have been following
4 it's very difficult for us at this time to be present
5 with our elders. We just didn't have the time to
6 arrange all of that.

7 I would like to indicate to the Board
8 that we were going to have other people with us, but
9 it's just not possible, and I am sure you are aware of
10 us not being home for the last five weeks, at least
11 myself and the Grand Chief, and this is getting to be
12 kind of a long day, so without saying too much more,
13 counsel can continue.

14 MR. COLBORNE: I will make my
15 introduction to the panel extremely brief.

16 It is intended that the evidence that you
17 are about to hear and which has been filed in writing
18 on behalf of this panel will tie together, in as much
19 completeness as is possible, given the real
20 circumstances, the evidence that you have heard up to
21 this time:

22 The historical evidence, the evidence
23 about the lack of forest resources on reserves, and the
24 lack of opportunities on reserves, the evidence about
25 the overall economic situation with the forest industry

1 and the need for opportunities for members of the
2 Treaty 3 First Nations, the evidence about the fact
3 that there are ways and examples of incorporating,
4 within reasonable forest management plans, aboriginal
5 control of forest resources, the evidence that that is
6 not only possible but it's done, and the evidence from
7 the individual communities that you've heard about
8 their needs and aspirations.

9 That all of that evidence could come
10 together here with the elected political
11 representatives of the 25 First Nations which make up
12 Treaty 3 and who are the original owners of the land
13 that we have been talking about, that those political
14 representatives can tell you about their views as to
15 how the problems that have been described - which I
16 will be, when legal argument time, calling
17 environmental problems - how those problems ought to be
18 overcome in their view.

19 With that as a brief introduction for why
20 this panel is here, I would like to begin my questions.

21 DIRECT EXAMINATION BY MR. COLBORNE:

22 Q. These questions will be addressed to
23 Grand Chief Fobister but, as you other witnesses are
24 aware, if you wish to answer do not hesitate to do so.
25 If you wish to add to what the Grand Chief has to say,

1 do not hesitate to do so.

2 And Chief Fobister, most of my questions
3 will be referring you to passages in the witness
4 statement which has been filed and asking for any
5 further comments or elaboration that you would care to
6 add.

7 And I would begin with paragraph 14 of
8 the witness statement. There appear words which I
9 interpret as talking about, to use a phrase which is
10 common these days, sustainable forestry practices.

11 MR. MARTEL: What number is that, Mr.
12 Colborne?

13 MR. COLBORNE: Paragraph 14, page 4.

14 Q. The actual words in the witness
15 statement refer to things such as taking only what the
16 forest can afford to give.

17 My question for you is: In terms of what
18 actually gets done in the bush by woodlands workers,
19 how would this work in your view? Paint us a picture,
20 if you could, of an operation that you think would be
21 of the type that is acceptable carried on in your
22 territory.

23 CHIEF FOBISTER: A. I believe it's
24 important, you know, that there should be a full
25 consultation first in place with people who have lived

1 there all their lives and I also believe that, you
2 know, what has been a way the logging industries have
3 been performing for so many years in the area, that
4 they've cut so many areas that, you know, in order to
5 replant the forest in the area, it's so far behind.

6 If that consideration as I would know it
7 from the areas that I've experienced, over a period of
8 40 years they have at least advanced about 70 miles of
9 a cutting area.

10 And over a period of 40 years, if they
11 started planting 40 years ago from where they were
12 cutting, it would almost be something that, again, they
13 would have went back where they actually started from
14 and started cutting again, instead of having to keep
15 on going and forget about replanting.

16 This is something that only has been done
17 recently and we're seeing more -- I guess more advanced
18 equipment working in the bush as it's not -- it's no
19 longer people, you know, getting the benefits off the
20 land but it's more like a very -- well advanced
21 equipment, I just don't see that, whether it serves
22 any -- it serves the society anything good and a lot of
23 people are being affected by it.

24 And now that we almost think it's a
25 little too late, we're starting to think that we can

1 plant fast enough to keep up with as much as we're
2 cutting and we're depleting our resources in a lot of
3 ways, and I'm not so sure whether there is enough
4 conscience on those big industries that have been
5 practising that.

6 And on the other hand I felt that, you
7 know, if we would have been all involved in ways to
8 protect, you know, this valuable resource in the
9 beginning and if we lived up to the commitments we made
10 and our forefathers have made I believe -- you know,
11 the management of the forest, we wouldn't have to sit
12 down here and, you know, discuss ways of where we
13 perhaps have made mistakes.

14 Q. Do any other members of the panel
15 want to add to that reply?

16 (no response)

17 My next question has to do with paragraph
18 23.

19 MR. MARTEL: Can I ask a question, Mr.
20 Colborne. When you make the statement you do, Chief
21 Fobister, in that paragraph you're not talking about in
22 the technical sense what you perceive as being done to
23 achieve the goals you want?

24 I mean, you want to do that through
25 discussion as opposed to trying to lay out for us now -

1 well, let's give you an example - that there should be
2 so many hectares of this, or -- you're not talking in
3 those terms at all, you're more concerned with from
4 here on in you have a say in how and what prescriptions
5 might be, or how things will be done, not just - and I
6 think you used the term this afternoon - just giving an
7 approval to something which had already been planned,
8 you want direct involvement from square one, if I can
9 use that term.

10 CHIEF FOBISTER: I would have preferred
11 it, but...

12 MR. MARTEL: But I mean from here on in,
13 Chief Fobister.

14 CHIEF FOBISTER: Yes.

15 MR. MARTEL: So you're not looking to
16 tell us here now what you think should be done, how
17 many hectares or anything like that, you're really
18 stressing that your involvement from here on in is the
19 total plan?

20 CHIEF FOBISTER: It's essential.

21 MR. MARTEL: Okay.

22 MR. COLBORNE: Q. Paragraph 23 talks
23 about a number of things, but including -- well, maybe
24 I should just focus on paragraph 23. Maybe I should
25 talk more about a concept, because there is something

1 you have mentioned and something that Mr. Martel has
2 just spoken of and, that is, the consultation and
3 decision-making process.

4 How do you picture that as happening in
5 the future? In other words, from here on in, if it's
6 not just coming in at the end of the process to look at
7 what has been decided by someone else, but if it's
8 actually being involved, as you said, essentially right
9 at the start, can you paint us a picture with a little
10 bit of detail in it as to how that would happen, how it
11 might be structured?

12 CHIEF FOBISTER: A. I believe that
13 perhaps we would be recognized as the utmost interest
14 groups in the area as from the Treaty 3 perspective we
15 enhance in protecting an area 55,000 square miles as we
16 think that is our traditional land use area,
17 compromising by all the 26 bands who were signatories
18 to that Treaty and, as a result, we were never
19 recognized that we have had any authority or
20 decision-making other than within the little five per
21 cent of territory that we represent in that 55,000
22 square miles.

23 The Province of Ontario has always
24 maintained their assumption that they have the
25 responsibility of authority over the Crown lands in

1 Ontario and it was their firm belief that they -- that
2 they were under no obligation whatsoever to engage in
3 any discussions with any of the First Nations within
4 these territories.

5 We recognize ourselves that we, as a
6 government, in order that we have to be self-sufficient
7 we have to have a land base, not only within an area
8 that it's called the reserves where we live in now, but
9 those access resources that - in this particular case
10 we're talking about the forest industry - has meant a
11 lot for Indian people because...

12 For that reason, why I'm saying that, is
13 that we were able to build our homes from that valuable
14 resource, but when we were denied access to any of the
15 logging, then it was the decision of the Department of
16 Indian Affairs to build our houses for us and, as a
17 result, we became destitute and the Bands remained
18 poor.

19 In order that we can be self-sufficient
20 we need an equity base as well as the pulp and paper
21 companies use equity base; when they go and want to
22 expand, they use the forest as their collateral, but we
23 don't have nothing to use as an equity base, and I
24 think for that reason we would have -- our communities
25 would have flourished.

1 If we became partners and if we became
2 good neighbours and if we respected each other, I think
3 we would have built this country to a strong economic
4 base, but the disparities between us, the wealthy and
5 the poor, you know, was one of the reasons why, you
6 know, this country is in financial trouble.

7 We looked at ourselves as the way we want
8 to see is: We just want to become part of the
9 developments that happen in that area and to plan
10 together as to what benefits that will flow for
11 everyone not just one particular person and one
12 particular group.

13 We have been here for thousands and
14 thousands of years and when we refer to the tree, when
15 we refer to the white man, you know, the significance
16 of that name -- when we call -- wimtikosia when we
17 say -- that's what we call the white man. Tik means a
18 tree, wimtikosia means a person who takes away trees
19 but does not return anything.

20 Q. There is a reference in paragraph 28
21 to traditional forestry practices. Can you tell the
22 Board a little more about what traditional forest
23 practices are or might be in a future situation where
24 Indian government is involved in management of
25 resources and timber?

1 A. I don't want to criticize the logging
2 companies that much, but I think it's only fair to say
3 that what they take out of the forest, how much do they
4 give it back, you know, do they just look at profits.

5 When we look at profits in our
6 communities, when you talk about giving something back
7 to the forest. Part of that -- the way the tradition
8 has always been, when we take a tree from the land,
9 whatever, we always put tobacco in it so in the hopes
10 that, you know, another tree would grow. So we always
11 put something back into the land.

12 So we're dealing with dollars and cents.
13 Now, in terms of when we look at this big industry of
14 ours, I would like to see how much money of that is
15 being put back in the land. I'm wondering if our
16 investors, people who buy shares into the companies
17 even think about putting some of that money back in the
18 land so the rest of the people who live off that land
19 can enjoy.

20 And when we talk about self-government,
21 we want to maintain, that self-government means for the
22 white people too, and whatever we build in terms of
23 wealth on the land, we like it to remain in our
24 territories so we get the full benefits of it and we
25 work on the land to try and revive it, whatever we take

1 out of it, much more on an equal basis, and that is
2 where we're coming from.

3 Q. In the next paragraph, 29, there's a
4 reference at the end to potential future opportunities
5 for Ojibways working in forestry and it says that:

6 "Our people, who live in the forest
7 have been taught since childhood to
8 respect nature, would be ideal candidates
9 for...", that kind of job."

10 Can you give us any examples or elaborate
11 on that as to why you think members of Treaty 3
12 communities would be ideal candidates for forest
13 management and other forestry-related jobs?

14 A. As of right now, you know, the way it
15 seems like is that we go to Boise Cascade or Great
16 Lakes for jobs, contracts, they will tell us that they
17 want to -- they want to give priority to their
18 traditional suppliers which are usually either people
19 from Idaho, whether they're groups from outside of this
20 province or right across from other province, and very
21 little effort in the past has been given to our own
22 people who are the sole contributors to the economy and
23 the patronizers of all the businesses that exist in our
24 communities, whether it's reserves or municipalities.

25 What I'm saying is, there should be an

1 effort and we would like to see that effort of a
2 priority of jobs should be given for our people and an
3 opportunity to use Indian people that we can perhaps
4 become partners, investors in these companies and
5 perhaps maybe we can sway a few recommendations in the
6 future.

7 Q. There are references in the following
8 paragraph, that is paragraph 30 to clearcutting, and
9 you have already told us when you were giving evidence
10 as a witness in Panel 3 about your own experience with
11 taking elders up and looking at clearcut areas.

12 However, my question has to do not with
13 that but with your suggestion that massive
14 reforestation and changes in forest management
15 practices are indicated or desirable now.

16 The reference to massive reforestation.
17 Could you clarify that or elaborate on that. Are you
18 talking about tree planting or more than tree planting?

19 A. I talk from the perspective, I think
20 we are so far behind, you know, in our reforestation
21 program, I think I can say that we're about 20 years
22 behind reforestation. I'm saying just the number of
23 trees that grow, the length of the trees that are now
24 in the stands of where they cut -- they were cutting 40
25 years ago, and our area is taking a pounding, not only

1 because we have had so many forest fires, so many
2 forests has burned and the logging on top of it, maybe
3 we should look at, you know, a remodernization of an
4 equipment that can plant, you know, a hundred times
5 faster than what a man can plant, instead of the other
6 way around, cutting a hundred times faster than one man
7 can cut.

8 There seems to be no balance there, and
9 this is my fear, because of what I seen in British
10 Columbia and the way they've looked after their forest
11 down there, it's an absolute disaster.

12 And what I seen around the world, it's
13 frightening that -- it's a good thing that in your land
14 that here we have, you know, three seasons, it sort of
15 gives us a chance for our natural resources to revive
16 themselves, but that is not the case where -- in much
17 more hotter areas.

18 And I think we really have to look at,
19 you know, my opinion these are the concerns that the
20 elders are talking about and they have to be addressed.

21 CHIEF PERRAULT: A. I just have a
22 question of the Board themselves here in Fort Frances.
23 When you flew from Thunder Bay, did you fly from
24 Thunder Bay?

25 MADAM CHAIR: We have flown many times

1 from Thunder Bay, we sat there for two years.

2 CHIEF PERRAULT: So you know exactly what
3 we're talking about when you take a look down from the
4 plane on a nice clear day and the scars on the land
5 that -- you know, that are there. Just, I don't even
6 like flying to Thunder Bay anymore, you know, I do a
7 lot of driving.

8 A couple of weeks ago I took my
9 father-in-law, he's 72 years old, on the opening day of
10 the walleye season I took him trout fishing. We went
11 up to a lake that we like to fish for lake trout, there
12 are no walleyes there, so there are no fishermen on
13 opening day for walleye season.

14 But on the way up there, there's -- you
15 know, looking at along the highways, and it's close to
16 highways there. At one time they used to leave at
17 least - I heard it mentioned earlier today here - a
18 screen where you wouldn't see the clearcut, but they're
19 not doing that any more and he's looking out here at
20 the destruction in the forest, destruction, just a
21 removal of forest is what it amounts to, there's a
22 removal of life there and he just couldn't believe
23 that -- when he started working in the bush, he started
24 at a young age, he's telling me, you know, 14 years
25 old, you know, he was out there with a swede saw and

1 hooking up with a draught horses and how much more that
2 they thought that was the way to take things out of the
3 forest.

4 And we understand that there's a lot of
5 improvements that go on through the years, but it
6 sounded, the way he was describing as, you know, you
7 have a horse coming along pulling logs along, and it
8 just seemed easier. You could pull right up to a tree
9 that you wanted and you would knock it down and you
10 would take it out, but you wouldn't have to take
11 everything.

12 And I don't think we're ever going to get
13 back to that type of logging, but maybe it should be
14 considered, you know, selecting certain trees that you
15 want to take instead of knocking everything down.

16 I used to work for the MNR in fighting
17 forest fires in 1974 to '78 and some of the MNR
18 supervisory staff that I had worked for, it was also
19 puzzling to me why this supervisor would get upset
20 about the area that we represented in controlling
21 forest fires, that we were not getting the acreage of
22 other places in Ontario for large fires. He talked
23 acreage of burn, and we were proud of putting out
24 fires.

25 And so this guy that worked for MNR, I

1 could never understand why he was saying that, yet that
2 was our job, to control forest fires and he was jealous
3 of the other districts that had larger acreage of burn.
4 So, you know, I just couldn't understand why that would
5 be his concern.

6 Another thing about some of the terms
7 that I heard used in that system about cutting, and you
8 hear about someone going in after, like, when Boise
9 used to have their woodlands operation, now I think
10 it's all done by contractors and jobbers, but Boise
11 used to have their own cutting staff there with people
12 who would go out and take the cream and just, you know,
13 go out and do high production and they would put these
14 guys in good areas, you know, slashers that could keep
15 two and three skidders going at a time and stuff like
16 that, and then later on they would send in what they
17 call a clean-up crew. And I never understood that term
18 either, what does that mean, clean-up; does that mean
19 to go in and flatten the rest, or what. I don't know.

20 If you take a look as you fly around here
21 now I guess that's what it means. But clearcutting,
22 one of the things my father-in-law raised was: What
23 does that do to, what happens when it rains there and
24 there's nothing there, what goes into the lakes or
25 what -- is not really knowing, just wondering, you

1 know, what other kind of damage is there that we really
2 don't know at this time.

3 So I just thought I would make a couple
4 of comments. And you're talking about clearcutting and
5 some things that just recently my father-in-law raised
6 to me, and some of the memories I had when I did work
7 for MNR, I thought at that time there was a purpose,
8 and I know there's a purpose for fire and that it
9 contributes a lot to regenerating a forest, but it
10 seems to me that if there were those types of crews,
11 fire crews that could control an area for a prescribed
12 burn, you know, I know that kind of a system goes on
13 today and is probably beneficial.

14 If I go to some areas where I've seen
15 prescribed burns happen, trees are coming, you know,
16 coming back there from the burn, but I just couldn't
17 figure out why one of the supervisors in the MNR would
18 be upset about not having the so-called acreage of
19 other districts.

20 MR. MCINNES: A. I guess, you know, to
21 sum up some of the points that was made by our earlier
22 speakers today and by my superiors here and colleagues
23 here, the point that is indirectly being made here is
24 that there was and there still is traditional
25 government amongst us and that we adhere to as Ojibway

1 people.

2 Some of the things, you know, that's
3 talked about in abstract here is the exploitation that
4 is going on and the justification of this exploitation,
5 well, we are not part of that and we have never been
6 part of that. Our customs and teachings as they have
7 come down from our parents have always warranted
8 respect for the elements of mother nature, the water,
9 and the sky, and through our prayers and through our
10 teachings we try to live by that way and that is the
11 way of the Ojibway people.

12 I think when we talk about changes for
13 forest management I think what the people of Ontario
14 have to do, especially the Government of Ontario has
15 got to do is begin to respect that, that there is a
16 way. You know, we were left out of exploitation, we
17 were left out of the all the profiteering off our land
18 here, now there's sincere talk about the environment
19 today and let's protect and preserve.

20 Well, we always had that knowledge, we
21 always had that skill, and this was handed down from
22 generation to generation from century to century.

23 I think the point I want to make clear to
24 the Board is that we can't be left out of this exercise
25 this time around because it is the last exercise

1 especially, you know, in the context of our land here,
2 that would not be acceptable to my people.

3 MR. COLBORNE: Q. The next topic I
4 wanted to refer the panel to was the reference in
5 paragraph 31 to the necessity for decision-making power
6 being in local people.

7 And the particular question I have has to
8 do with the reference to the fact that you could have a
9 different approach in a different area. I am looking
10 at the bottom of page 6, top of page 7.

11 And I take it from that that, for
12 instance, Grassy Narrows might have one type of
13 arrangements and Lac des Milles Lac might have
14 different type of arrangements. Am I understanding the
15 idea correctly?

16 And just tell me what is meant by having
17 different approaches but approaches which involve
18 decision-making power in local people?

19 CHIEF PERRAULT: A. With respect to my
20 Grand Chief I wish to speak on behalf of my tribal
21 area. The Treaty 3 territory which we all consider to
22 be ours, 55,000 square miles and we move within that
23 territory, but we respect even within that 55,000
24 square miles regional differences.

25 Different communities set up in different

1 areas of that territory territory do things differently
2 because of location, and even the populations of our
3 own communities and different things like that, but we
4 take -- because our own tribal governments have been in
5 place for a while, these are why we might see taking
6 different approaches to things. We take different
7 approaches, as our own regional governments within our
8 territory and our own individual governments by
9 community.

10 On certain issues, like, if Grassy
11 Narrows, which is out of my tribal area, has certain
12 things which don't necessarily have to be a written law
13 about how they are managing any kind of a resource, be
14 it timber or fish or moose or whatever, we respect
15 that, you know, and when we go that way we try and let
16 it be known to those people there that we would like to
17 at least let them know that we might be hunting in
18 their area or something like that.

19 These are traditional uses that -- I
20 guess it goes back to even before when a block system
21 was put in place about wild rice, wild rice harvest.
22 My understanding of it, before I guess some of the
23 communities started agreeing to using a certain block
24 system of the province, was that the people followed
25 the rice. When it was coming ripe in different lakes,

1 different people would be at different sites which
2 would move. My grandfather would pick rice in the
3 White Shell in Manitoba, still within Treaty 3
4 territory, you recognize now as Manitoba, and they
5 would move this way, or that way depending on, you
6 know, what was happening at the time.

7 So I guess maybe I really don't
8 understand what your question is.

9 We have regional differences,
10 politically -- even some politically, but regional
11 government that we recognize each others within the
12 territory as having different authorities and different
13 respect for how things are done in someone's
14 traditional hunting area or trapping area or whatever.

15 CHIEF FOBISTER: A. I think one of the
16 things that I can answer to the question is that a lot
17 of our efforts, individual efforts, the way we want to
18 move to do things in a way it becomes self-sufficient.

19 We really had -- in the past hadn't much
20 to work with, besides not being able to be recognized
21 by the provincial government, by multi-national
22 corporations, we have ran into stumbling blocks where
23 the Indian Act did not allow us to be able to make any
24 way towards being self-reliant on any industry. We
25 were denied from all these things, even from our

1 culture and tradition. And I talked to you -- I talked
2 to the Board here -- when we talk about our cultural
3 and traditions play a significant role in terms of our
4 economic life and how it sustained us.

5 One of the ministers from the House of
6 Commons, I believe it was Joe Clark when he was the
7 External Affairs Minister, made a comment of saying
8 that an immigrant comes to this country and he gets all
9 the benefits from this government and from this country
10 and in about one or two years he's on his own. And he
11 was saying that, you know, the Indians have been here
12 for thousands of years and they're still, you know,
13 cannot be independent or can't be self-sufficient
14 because of the fact that -- you know, the fact is that
15 we're not able to capitalize on, your know, our
16 traditions, when we talk about traditions and culture.

17 I fly down to Toronto and when I land
18 there and, you know, I feel like that I've landed in
19 India because that is the first encounter I have when I
20 get outside the terminal. And you go down to any city,
21 whether it be Winnipeg, Toronto, you know, the cultural
22 and traditions are very significant. You have the
23 Chinese communities, you have the Jewish communities,
24 Ukranians, whatever, and they're able to get into the
25 franchise, you know, with the main stream economy of

1 this country, something that we don't -- that we have
2 never had.

3 And the thing we talked about is the
4 differences and we talk about in this sense, is that
5 Indian Affairs philosophy at one time to get us into
6 logging was to build all sawmills in the 26 reserves.
7 You know, how is that, you know, going to be, you know,
8 fruitful.

9 So we have to be different, we have to
10 find ways of, you know, not being competitive with one
11 another because it only does harm to everyone, but
12 being a supplier, being -- as I talked about, there are
13 certain different things that can be done.

14 In this sense we talked about the waste
15 that's going on with this clearcutting business in the
16 north, you know, Boise's talking about -- or Great
17 Lakes is talking about that it's getting more and more
18 expensive to, you know, to have to haul all these logs
19 up to the main mills like Fort Frances, Dryden. We
20 recognize the significance of these industries, that it
21 provides jobs and livelihoods, you know, for people.

22 Likewise, you know, why can't we have the
23 opportunity. We can help in this sense by having the
24 people in the north who live out there, there should be
25 satellite sawmills, there should be satellite pulp

1 mills.

2 Now, I understand that there is now mills
3 that are pollution free that could provide, you know,
4 these communities, these satellite mills to be built in
5 the north to even taking the branches and, you know,
6 converting them into fiber that would deliver that
7 fiber into the main mills in Fort Frances or Dryden or
8 Kenora. You know, doing different things, you know,
9 you're not going to have every Indian that's going to
10 go cutting in the bush, it's that thing, it's doing
11 different things and, you know, being able to circulate
12 that economy within.

13 As an example, I want to talk about my
14 Chinese doctor who I went and seen in Winnipeg, I often
15 see him. Gives me a prescription, sends me downstairs
16 and the pharmacy is run by Chinese and, I don't know,
17 they communicate very well there. He tells me that
18 it's going to take half an hour before I get my
19 prescription, so he sends me to go and have a cup of
20 coffee on the corner and it's a Chinese restaurant.
21 You know, that is what I call culture and tradition, it
22 mixes their identity and their traditions, and yet it
23 balances well.

24 This assimilation that we have been --
25 you know, we've been trying to -- we've been pushed to

1 take is only -- it's not going to advance us unless we
2 become involved, unless we advance and understood.

3 MR. McINNES: A. Yeah, I think just some
4 very brief documents about forest management in
5 paragraph 31. I think the reality of my people and the
6 historical reality of our existence has been an
7 institutionalized state, you know, the actions of
8 corporate government and corporate business and the
9 actions they have taken, you know, have caused a
10 dependency amongst my people.

11 You know, this dependency and how this
12 has evolved has really got us to realize that they're
13 not concerned about our needs, they're not concerned
14 about, you know, the impact, the consequences of their
15 actions in terms of our lives, it was more on profit,
16 and looking and understanding our history in terms of
17 our traditional governments, and this is something
18 that's been erased and dismantled in the past and today
19 through the Indian Act and through various other
20 policies.

21 That is the reason for saying local
22 control, that is the reason for saying community-based
23 control. We have the mechanisms there. I think
24 generally speaking, you know, they exist as well within
25 your own communities, non-native communities. We have

1 to get beyond this institutionalized thinking and
2 mentality where people from corporate business and
3 corporate government make decisions for us in the north
4 here. This is our land, this is our territory, we know
5 what our concerns are here, we know what our future
6 looks like for us here. We need to have that
7 opportunity to start making those decisions.

8 MR. COLBORNE: Madam Chair, it's now five
9 o'clock. I can tell you that my estimate of the amount
10 of time that I require to complete examination of the
11 chiefs of this panel is one half hour or less.

12 It would, if you like, therefore be
13 convenient for me if we had the dinner break now,
14 finish up shortly after, and then we could proceed to
15 cross-examination and maybe in fact get finished
16 tonight as we are planning to do.

17 MADAM CHAIR: One moment, Mr. Colborne.

18 ---Discussion off the record

19 MADAM CHAIR: We will follow your
20 suggestion, Mr. Colborne, and have our dinner break
21 now.

22 How long shall we break? How long do the
23 witnesses need and yourself and.

24 CHIEF FOBISTER: We can sit here til
25 twelve.

1 MADAM CHAIR: You've become accustomed to
2 it in the last few weeks obviously.

3 MR. MCINNES: We are survivors.

4 MR. COLBORNE: Whatever is most
5 comfortable.

6 MADAM CHAIR: Is an hour and a half
7 enough time for dinner and a chance to stretch.

8 MR. COLBORNE: I think so.

9 MADAM CHAIR: We'll be back at 6:30 then.

10 Thank you.

11 ---Dinner recess taken at 5:00 p.m.

12 ---On resuming at 6:45 p.m.

13 MADAM CHAIR: Please be seated.

14 Mr. Colborne, I was going through my book
15 to see what the exhibit number was for the photomosaic.
16 What did you have for exhibit 1850?

17 MR. COLBORNE: I don't have my books.

18 MR. MARTEL: That's really mean, isn't
19 it.

20 MADAM CHAIR: Or perhaps 1858.

21 MR. COLBORNE: I know where they are, but
22 I don't have them, for Panel 2 when that exhibit was
23 presented

24 MS. GILLESPIE: We have it as 1858.

25 MADAM CHAIR: 1858, all right. I have it

1 as -- I called call it a map and not a photomosaic. I
2 believe the exhibit number is 1858.

3 MR. CASSIDY: Thank you.

4 MR. MARTEL: Map, Treaty 3 Ojibway
5 Homeland.

6 MR. CASSIDY: Madam Chair, I've had the
7 opportunity to speak to Chief Fobister over the break
8 and he and I have had a discussion regarding the
9 undertaking I asked him about whether or not the
10 agreement, Exhibit 1888G, was completed or fulfilled to
11 allow harvesting in the summer, and he informs me that
12 that was done and, in fact, as of this date it's
13 completed. And I appreciate Chief Fobister informing
14 me of that.

15 MADAM CHAIR: Mr. Colborne?

16 MR. COLBORNE: Q. I would like to now
17 direct your attention to paragraph 42 of the witness
18 statement, and here it says that you do not like the
19 idea of resolving problems having to do with Indian
20 participation in the forest industry by way of, as it
21 says here, some kind of affirmative action in the sense
22 of government forcing employers to hire people they
23 don't want to hire.

24 And then it goes on in paragraph 43 to
25 say:

1 "Steps towards a solution must be based
2 on rights not handouts."

3 My question to you is based on an inquiry
4 from Mr. Martel of the Board and it is: Would you care
5 to elaborate on that comment in paragraph 42 and 43 and
6 just flush out a little more of your thinking on that.

7 I believe the point of interest is the
8 fact that affirmative action programs are common these
9 days and why is it that Treaty 3 would say that's not
10 the way we want to go?

11 And any member of the panel.

12 MR. MCINNES: A. I think I'll make some
13 initial comment before my Grand Chief makes some
14 comments.

15 I think to equate that to other areas,
16 and maybe a case in point would be child welfare and
17 the empowerment of my people over the last few years,
18 number of years, 10 years to be exact.

19 The whole -- our situation as it relates
20 to Ontario again is, you know, this mentality, this
21 institutionalized mentality where, you know, to forgive
22 injustices seems to -- the approach that seems to be
23 taken is: Well, we'll give you a few jobs, we'll let
24 you have a limited program control.

25 That isn't enough. No, we've got to the

1 look at the damage and the hurt that has been created
2 and we have to look at the expenditures that was made
3 in that damage being done to us is going to cost a hell
4 of a lot more money.

5 I think when we look at our people we are
6 not merely an interest group, we are a nation here. As
7 such, I firmly believe our nationhood, our values, our
8 traditions, our customs, our governments have got to be
9 respected in that context. That, yes, we do have a
10 rightful place here. We do have the mechanism to
11 mobilize and to produce. You know, these codes, these
12 policies, how you call them, these are ways for us and,
13 I think if we're given the capabilities to do that, we
14 would do that.

15 MR. MARTEL: Mr. McInnes, when I look at
16 it though these negotiations regarding self-government,
17 regarding resolution to treaties, long outstanding I
18 accept that fully, but when I realize that that could
19 take a number of years yet, I wonder if you don't --
20 why you don't consider some measures to assist -- or
21 you're not making demands of measures that could
22 provide relief to your people until those other matters
23 are resolved.

24 I mean, if they take 20 years, your
25 people will suffer as they have for the last how many,

1 and I guess that's what worries -- when I read this
2 statement, I understand where you're coming from, I
3 wanted it clarified from you, but as the thoughts run
4 around in my own head, how long can you wait?

5 MR. MCINNES: I think, you know, you look
6 at, as you say, the oppressed state we have lived in,
7 we realize that. I think in order to address that
8 equal opportunity has to be given to our people, you
9 know, to formulate their courses of action and not to
10 have representatives at this table or at anybody's
11 table formulate and propose these recommended
12 solutions. It's got to be community based as we have
13 been emphasizing throughout the day.

14 We have to respect that, the primacy, the
15 autonomy of each of our nations. They are nations in
16 that context and we respect that as a collective
17 nation, Treaty 3, and you will have those solutions
18 come up, but it cannot be piecemeal, it's got to be
19 extended in a manner that respects our integrity and
20 you will have full cooperation, full participation
21 because it does not perpetuate the oppression and the
22 state of oppression we have been living under.

23 CHIEF PERRAULT: Maybe if I can add a
24 comment. The way I see this statement about not
25 wanting jobs or other activities in certain areas to be

1 perceived as a handout, I think anything that ever goes
2 to Indian communities by the non-Indian people is
3 perceived as a handout, a grant, something that the
4 taxpayers have to provide.

5 I think what the statement is saying is
6 to recognize our right that the resources on the land
7 in Treaty 3 territory by the agreement of Treaty No. 3,
8 the understanding of the Chiefs when the Treaty was
9 signed, was that there was a sharing and that's what's
10 meant by a right.

11 I guess we don't like it to be perceived
12 as a handout, not by our people, but by the non-Indian
13 people. To us owning the resource is a right, and so
14 to me that's the way I look at it.

15 I don't mind saying that these resources
16 were meant to be shared and we have some rights to
17 them, and if that means that, because we have those
18 rights we have a certain amount of people that should
19 be working in the industry then, fine, but I guess what
20 we don't always like to have said or perceived by the
21 non-Indian people is that these rights are looked at as
22 grants and handouts.

23 Does that help you understand?

24 MR. MARTEL: Yes, it's helping me to
25 understand. I guess my real concern is, is I worry

1 about the long run, how long it's going to take for .
2 these things to be accomplished.

3 If you had a wishing wand and you could
4 wish tomorrow for a solution, that is one thing.
5 Having watched for years, the wheels of government
6 grind pretty slowly, you know, and I guess no one knows
7 it more than your people, but I just...

8 CHIEF PERRAULT: Mm-hmm. We're not in a
9 rush to go anywhere, we're here and we're always going
10 to be here, you know, but it's in our greatest interest
11 to see our Treaty rights recognized and to have
12 Canadians recognize that if there was a sharing.

13 I heard one time that on a nation to
14 nation agreement such as Treaty 3 with Canada we agreed
15 to what was within our territory, and Canada turned
16 around and decided to share that with another
17 government, which is the province.

18 We still have our 50 per cent of what we
19 see as a share, but how much did Canada share with the
20 province or something along those lines, you know. But
21 I guess, talking about jobs --

22 MR. MARTEL: As an old politician I must
23 tell you that it was the provinces that shared power
24 with the Feds and they ended up with it all at the
25 Charlottetown Conference, from my perspective.

1 CHIEF PERRAULT: But anyway, I was down
2 in Queen's Park several times and I looked through the
3 halls there and see the different governments that
4 moved through Ontario, and we had a member of
5 parliament I guess from this area, the Rainy River area
6 back in the early 1900s it was J.A. Mathew.

7 J.A. Mathew owned a sawmill which was
8 situated on Couchiching Reserve and he was in
9 government for, looks like to me three terms, but I
10 don't know what influences he had, but I can tell you
11 from what people have told me that people worked then
12 in the forest industry, they worked in logging camps,
13 they worked on the logging drives, they worked in the
14 sawmill, they didn't have welfare, they were working
15 and we're not working today.

16 CHIEF FOBISTER: I would like to make a
17 comment. I guess as to give an example, I think
18 statistics themselves reveal as we have gone through
19 the process in many of communities that when we talk
20 about the trees and all the things that contain in it
21 like fish, hunting rights and all of these things that
22 talks about water and environment, in those times those
23 were the availability of economic developments, that
24 you can describe it, that sustain people in the land in
25 order to be self-sufficient.

1 And as we progressed I'm not sure
2 whether, you know, in order to elevate the standards as
3 to the way this world has modernized and technology has
4 grown we begin to use these resources in a lot of ways
5 that we forgot about, you know, the arrangement that
6 was made so long ago.

7 I guess the thing is, like, some
8 communities prior to 1960 and the implementations of
9 provincial government policies, that's when we started,
10 most people, communities, their self-sufficiency
11 started to demise, and I personally can say - and these
12 are within the records of the provincial government -
13 that particularly one community like Grassy Narrows
14 where between the time that the Treaty was signed until
15 1960, during that period of 90 years, you know, in an
16 year perhaps the Government of Canada only spent
17 something like \$500 dollars a year for any -- and
18 provincial government never spent any money on
19 reserves.

20 And until 1970 when we were told not
21 to -- we didn't have rights within the land, that's
22 when we were given alternative dollars that would, you
23 know, allow us to only maintain our activity just
24 within our reserves.

25 And I tell you, from today when you look

1 at Grassy Narrows, their budget is a couple of million
2 dollars a year, you know, but all that money goes into
3 a town like Kenora, which the government keeps saying
4 we're going to deal with you in access to renewable
5 resources, but when you compare the provincial budget,
6 you know, how much amount that they spend on health
7 care it's over about 12-, \$13-billion a year, and other
8 expenditures that -- correctional services, child
9 welfare, maybe education, but it's the institutions
10 that my people fill up right across this territory.

11 I'm beginning to see, you know, we are
12 becoming the access to renewable resources, we make
13 jobs for people, and every time we want to talk about
14 attempting to try and go into a relationship
15 arrangement, then we are met with all kinds of
16 opposition.

17 We want to harvest on the land, we want
18 to create jobs, as I talked about equity base, you
19 know, it's just that I think we have to do away with
20 selfishness. You know, under the regime that we are
21 living in as welfare recipients, telling us that we're
22 living off the taxpayers' dollars, that is what divides
23 this country between our relationship with the native
24 people.

25 And I kind of feel that this is something

1 that not only the governments have to understand but
2 the business people and the community people. If we
3 were self-sufficient, I think they would probably still
4 receive our monies because we have nowhere to spend it
5 internally, it goes out.

6 And when we talk about, you know, we
7 don't want any more handouts, we want this relationship
8 the way it was once when we first had this contact with
9 the Europeans, a share in the way we made this country
10 grow in the first place.

11 You know, the history is so sad that even
12 now Canadians are talking about recession in this
13 country. General Motors is going to lay off 2,000
14 people, pulp and paper companies are going to lay off
15 thousands of people because of productivity, but here
16 we have our executives in this country earning, you
17 know, a million -- a couple of million dollars a year.
18 General Motors' president making \$17-million a year.
19 If the company cut his salary, it would save a couple
20 of thousand jobs. You know, what is equal in this
21 country?

22 I can't see a man making that much money.
23 Where is the equality? That even exists among your own
24 people. When I say your own people, I'm referring as
25 non-Native people.

1 CHIEF PERRAULT: I don't mind seeing jobs
2 put in place or access to jobs put in place because,
3 like I mentioned before, in the early 70s I went on a
4 seasonal job for MNR and I was fighting forest fires
5 and at that time in this area there was three five-men
6 fire crews and they were all Indian people, and now
7 today we have one out of 20 some people there from my
8 community that works in that system and it was a move
9 that happened with the coming of one of the new
10 supervisors there.

11 But our people were used in certain jobs
12 because they are very good at it but, I mean, if there
13 was a lot of activity in the forest industry in the
14 early 1900s, you know, it's puzzling to see why today
15 there's hardly any activity there now, and if we were
16 involved then and if there was some kind of a
17 relationship that promoted advancement over the years,
18 you would have expected that in management and in other
19 areas we would have at least had a couple of people
20 there, but things don't turn out that way.

21 CHIEF FOBISTER: I just want to make one
22 example and I have to say this because my Band wanted
23 to engage in going into forestry, major expansion, and
24 that was to purchase the Devlin Timber, and every
25 available dollars was available to us to borrow this

1 money to buy the company, and there was a strong
2 opposition from the town people in Kenora, I don't
3 know, that they advised the company owners who were
4 willing to sell the thing to Indian people, Indian
5 people shouldn't own that, not to sell it to Indian
6 people, you know, and the company ended up in the wrong
7 hands and we just ended up, you know, with a non-voting
8 share in the company then.

9 And I don't have anything against the
10 people who own it now, but I think we might have been a
11 little more productive then the situation of that
12 company today because our heart lies with creating jobs
13 in the community. It's not syphoning the business.

14 MR. COLBORNE: Q. I would like to refer
15 you now to paragraph 59 of the witness statement at the
16 bottom of page 11. Here it says that:

17 "On the basis of experience...", and this
18 would be Grand Chief Fobister speaking,

19 "On the basis of experience, it's
20 necessary that MNR be compelled to
21 negotiate or else the negotiations will
22 be futile and fruitless."

23 My question is: Can you give me an
24 example or examples which would illustrate why
25 negotiations, if there are such, must be compelled if

1 they are not to be futile and fruitless?

2 CHIEF FOBISTER: A. Well, the best
3 example that I can give in this regard is, you know,
4 they have nothing to fear us, we are willing to -- you
5 know, we look at the Treaty 3 document as a spiritual
6 document, it has survived this long, and that's our
7 only basis of trying to put something in order what we
8 saw the relationship between my people and the
9 Europeans that came to this country.

10 When we negotiate, a negotiation process
11 has to be based on trust, it has to be based on where
12 we would become equal partners in the lands and
13 resources within Treaty 3 and it has to arrive at a
14 government to government relationship between each band
15 or each reserve or each first nation.

16 And what I'm saying is that some bands
17 have now been in negotiations, very few settlements
18 have been made, but there seems to be a fear where this
19 government is fearing that they don't have the mandate
20 to negotiate with Indian people, and I think that they
21 should expose themselves, whether they are government,
22 or are they a large bureaucracy, large civil servants
23 branch off from the federal government, you know, just
24 collecting tax dollars and revenues for the Government
25 of Canada; if not, then maybe we shouldn't be talking

1 to them.

2 Q. Is there a exact specific example
3 which you could inform the Board about or more than
4 one?

5 A. Well, we could say it seems to be a
6 waiting game where -- the prime example would be, say,
7 like Grassy Narrows, which is my community, and the
8 corner reserves like Islington Band, Whitedog Reserve,
9 you may call it, it's been 17 years since they had a
10 memorandum of understanding to negotiate certain access
11 to renewable resources, and to this day there hasn't
12 been any final decisions to be made in terms of, you
13 know, understanding that to co-exist within a territory
14 that was in dispute at the time.

15 And it seems to be a waiting game where
16 our counter partners have to settle very limited
17 settlement on the Islington Band, but it seems to be a
18 waiting game, they're waiting for Indian people, you
19 know, it's like our worse enemy is that always the fact
20 that we want to move.

21 We can have -- we can have our political
22 differences, but that doesn't mean that people have to
23 stop work. The economy has to -- you know, these
24 things have to look after themselves, like logging,
25 talking about other developments that happen in the

1 area, mining.

2 Like I said, you know, Grassy has -- in
3 this case hasn't formed anything, the governments are
4 just not prepared to -- they seem to be scared of
5 something, I don't know what.

6 Q. Can you think of any examples that
7 apply across the Treaty 3 area that you can advise the
8 Board of as opposed to community specific examples like
9 the one that you've just given from Grassy Narrows?

10 A. We can say that, you know, like
11 Treaty 3 specifically on a wide range basis, you know,
12 how long is the fishing agreement, you know, has been
13 undertaken.

14 Q. Can you give the Board any more exact
15 information about that particular issue?

16 CHIEF PERRAULT: A. Well, it started in
17 the early part of the 80s. I mean, we were trying to
18 enter into an agreement with, I guess two levels of
19 government, and Ontario has been consistent in not
20 wanting to deal with us, even until recently, I think
21 Mr. McInnes can inform you, he was personally at a
22 meeting a couple of weeks ago down in Toronto and
23 Ontario was again asked if they were willing to
24 negotiate and discuss with Treaty 3 the Treaty 3
25 fishing agreement, and -- go ahead Sonny.

1 MR. MCINNES: A. I guess, you know, to
2 be brief, the simple reason why we -- or the reasons
3 for 59 -- paragraph 59 is that Treaty 3, our people,
4 our leadership are just plain tired of motherhood and
5 good intentions.

6 I think we go back to '85 and go back to
7 some of the indications, the discussions from the
8 province, and it's officials. They said they were
9 willing to deal favourably with our issues, our Treaty
10 issues, and since '85 we have been asking them to get
11 the ball rolling. This has not happened.

12 As Brian mentioned and Steve mentioned,
13 we submitted a fishing proposal in '86 to negotiate or
14 to discuss our rights to fish, or obligations to fish.
15 As early as last month we again asked the provincial
16 official at the Indian Commission of Ontario what
17 Ontario's position was in terms of the proposal, and we
18 did not get a response, we did not get an answer as to
19 the status of that proposal.

20 So we need to have some assurances that,
21 yes, something will be done and something will be
22 followed up on. We like to talk to people, we like to
23 agree to things, but we have to have good faith, that
24 is one way of ensuring good faith will happen for us.

25 CHIEF PERRAULT: A. Any issue that ends

1 up at the Indian Commission of Ontario is usually in
2 for a long stay there, Ontario's at the table and it's
3 an easy place for -- any issue that ends up there,
4 we're absolutely convinced is an issue that does not
5 want to be settled by Ontario.

6 Q. The matter of a fishing proposal made
7 in 1986 and still not responded to has just been
8 mentioned. I have a document here that I would like to
9 show to, I guess, Mr. McInnes. (handed)

10 Is this the proposal that you were
11 referring to?

12 MR. MCINNES: A. Yes, it is.

13 Q. And does this contain, as part of it,
14 a negotiating position put on the table by Grand
15 Council Treaty 3 in 1986?

16 A. Yes, it does.

17 Q. And this is the one to which there
18 has never been, to this date, a provincial response?

19 A. That is the one.

20 MR. COLBORNE: Madam Chair, I want to
21 file this. Unfortunately, I didn't come with multiple
22 copies, so I'll just have to undertake to --

23 MADAM CHAIR: Mr. Colborne, could you
24 remind the Board, during your cross-examination of MNR
25 in Panel 5, perhaps it was the cross-examination of Mr.

1 Crystal and his colleague on that witness panel, there
2 was some evidence submitted on a fishing agreement, and
3 I'm not sure if it was anything taken from this
4 document or not, and --

5 MR. CASSIDY: That would have been Panel
6 6, Madam Chair.

7 MADAM CHAIR: Panel 6.

8 MR. CASSIDY: John Cameron and Bill
9 Crystal.

10 MADAM CHAIR: That's right. We do have
11 evidence on the fishing agreement, but I don't know if
12 it --

13 MR. COLBORNE: It was certainly referred
14 to at that time. I don't know if this actual document
15 was filed as an exhibit at that time.

16 MADAM CHAIR: I don't think the entire
17 document was, but we had various excerpts from
18 documents on that issue, however, we will accept that
19 as an exhibit.

20 MR. COLBORNE: Thank you.

21 MADAM CHAIR: And perhaps if you have a
22 chance to go through any of that and if we have this
23 excerpt in as evidence already, could you let us know?

24 MR. COLBORNE: I certainly will.

25 MR. CASSIDY: For Mr. Colborne's benefit

1 that was lines 43 through to 51 of the transcript.

2 MADAM CHAIR: Thank you, Mr. Cassidy.

3 This will become Exhibit 1891. It's
4 entitled: The Fishing Rights of the Treaty 3 Indians,
5 it's dated July -- did you say the date on there was
6 1986, Mr. Colborne?

7 MR. COLBORNE: I think about three pages
8 into it has a reference to the fact that it was
9 approved by the Grand Council Treaty 3 chiefs on June
10 6th, 1986.

11 MADAM CHAIR: Thank you.

12 ---EXHIBIT NO. 1891: Document entitled: The Fishing
13 Rights of the Treaty 3 Indians,
dated July, 1986.

14 MR. COLBORNE: Q. Are there Treaty-wide
15 examples that you could give of why you say that
16 negotiations must be compelled, or they'll be, as it
17 says here, futile and fruitless?

18 CHIEF PERRAULT: A. I just would like to
19 make another comment about our fishing agreement that
20 was presented and the one that we wanted to sit down at
21 the table with Ontario.

22 In the final, the bottom line in that we
23 talked about allocation of the fishery and it was
24 almost right along the lines of the decision that was
25 in Sparrow and Ontario still does not want to talk

1 about an agreement.

2 MR. MARTEL: Did this come as a result of
3 the uproar that occurred on at least, I believe, two
4 occasions when the government attempted to move ahead
5 with allocation of certain lakes in this part of the
6 world and there was a tremendous backlash, did this
7 document result -- does it come about as a result of
8 the issues, or the hostility which appeared to be often
9 at that time?

10 CHIEF PERRAULT: Well, I think the
11 hostilities happened because the agreement or the
12 document was being talked about, and I guess that's an
13 advantage that, to use media and scare tactics to
14 frighten the general public. That was a real racist
15 time here in our part of the country because of the
16 things that were being said by some of the -- even some
17 of the, you know, people within the system of MNR
18 itself.

19 We can't - maybe I shouldn't say that,
20 I'll withdraw that - but we have heard that the bad
21 feelings and the racism was promoted in the media too.
22 It was a good time for the reporters, I guess, but I
23 can't -- the point I'm trying to make is that I can't
24 understand why if the Sparrow decision in the Supreme
25 Court of Canada is very close to what Treaty 3 was

1 talking about, why is Ontario still not willing to sit
2 down and talk about a fishing agreement.

3 Even to say Ontario wants to continue
4 regulating a wild rice block system, and it's our
5 belief that within the territory of Treaty No. 3 wild
6 rice was never on the table in the Treaty agreement,
7 it's exclusive to the Ojibway people of Treaty 3, but
8 you still hear of a moratorium. That's fine, I enjoy
9 having a moratorium if they want to call it that but,
10 you know, is that going to end some day.

11 But it's our belief that that's one of
12 the things that we want Ontario to sit down with us and
13 agree as to respecting certain rights that's in the
14 Treaty, and even to this day, like, we started years
15 ago from requests from the chiefs in assembly through
16 our Grand Chief at the time Robin Green, to have some
17 kind of a statement of respect for Treaty No. 3 from
18 the province and that hasn't happened to date.

19 We're in some discussions now with a new
20 government, an NDP government in Ontario, and I guess
21 it's nice to see that the Premier has -- is saying a
22 lot of the things, but he's being tripped up by the
23 bureaucracy, that's what -- there are still some of
24 those attitudes within that system that we have to deal
25 with.

1 As the political leadership of Treaty 3,
2 we have run into that bureaucracy and I'm sure that the
3 new government is finding that out too, you know, the
4 system is not going to change just because the
5 government has changed.

6 MR. COLBORNE: Q. You mentioned a series
7 of dealings that had to do with a request that Ontario
8 state that it will respect the terms of Treaty 3.

9 I have a collection of letters here -
10 copies of correspondence which you also have - I would
11 like you to look at and tell me if this is a fair and
12 reasonable collection of the correspondence which would
13 illustrate what you have just referred to; that is,
14 which would illustrate the sequence that you are
15 referring to.

16 CHIEF PERRAULT: A. Yeah, these
17 documents illustrate what I'm talking about. We tried
18 to, you know, have some understanding with Ontario that
19 there would be a respect for the Treaty and different
20 issues in the Treaty. One of them -- yeah, these
21 documents do reflect that view.

22 It's funny, like, what seems very funny
23 to me is they wanted to know: Well, what's it going to
24 cost for us to respect the Treaty. It's not going to
25 cost any more than the resources that are taken out of

1 the territory, you know, and that was -- I couldn't
2 understand that statement in one of the letters.

3 MADAM CHAIR: Would you like to give the
4 Board a copy of that, Mr. Colborne?

5 MR. COLBORNE: Yes.

6 MR. MARTEL: Since everyone is talking
7 about it.

8 CHIEF PERRAULT: They're going to do a
9 costing of what it would cost Ontario to respect the
10 Treaty.

11 MADAM CHAIR: Do you want this to be an
12 exhibit, Mr. Colborne?

13 MR. COLBORNE: Yes, please. It's a
14 collection, I'm not sure if it's acceptable to have it
15 physically all marked as one exhibit, but...

16 MADAM CHAIR: It's very acceptable.

17 MR. COLBORNE: Okay, let's do it that way
18 then.

19 MADAM CHAIR: That will be Exhibit 1892.

20 MR. COLBORNE: It is a series of letters,
21 the earliest dated February 17th, 1986, the latest
22 - dated April 13th, 1989, total number of pages is 13 and
23 it all concerns the request of Grand Council Treaty No.
24 3 directed to the Government of Ontario that the
25 Government of Ontario state that it will respect the

terms of Treaty 3.

---EXHIBIT NO. 1892: Collection of letters dating from February 17, 1986 to April 13, 1989 with respect to Grand Council Treaty 3's request to Government of Ontario to respect the terms of Treaty 3.

MR. COLBORNE: Q. Whatever happened to this particular request, does it have a current status that you can describe?

CHIEF PERRAULT: A. I guess it's in that big limbo. We're still waiting, I guess, to find out what it's going to cost, but there hasn't been any resolve.

We're hoping to move into some kind of a statement as we have been for the last number of years since that issue was raised but, like I say, you know, you can have -- or we can have great hopes for this new government, but new government also has a bureaucracy to contend with.

One of the things, when we asked to have some respect towards the Treaty, I'll give you an example of what we were talking about. At one time Ontario had what was called leniency guidelines on Indian hunting and fishing. We know who draft those guidelines, and I talked to him and I asked - I guess it's all politics why they have to be called leniency

1 guidelines - but what he, this person who is working in
2 the Ontario government -- I said to him: Isn't what
3 you really mean Ontario respecting Treaty rights, you
4 know, and why won't you call it that?

5 And I guess they didn't want to create
6 any fear in the public, Ontario didn't want to be
7 perceived as respecting Treaty rights, hunting and
8 fishing rights. So they have to call it leniency
9 guidelines, which are now being replaced, I guess,
10 under Minister Wildman as an interim enforcement policy
11 or something like that. So they're still not saying
12 they are respecting aboriginal and Treaty rights.

13 Q. What's the effect?

14 MR. MARTEL: Could I ask a question
15 before you go on, because I see on the second page, the
16 letter from Ian Scott to Chief Don George July 12th,
17 '88 -- and the reason I raise this, you said that there
18 was no figure yet as to what the costs would be to
19 respect those promises, yet Scott in his letter says:

20 "I understand that the Ministry of
21 Natural Resources has recently completed
22 its costing with respect to the
23 unfulfilled Treaty 3 land and natural
24 resource promises."

25 Have you never been given that figure or

1 any indication of what it is?

2 CHIEF PERRAULT: No, we haven't.

3 CHIEF FOBISTER: (nodding negatively)

4 CHIEF PERRAULT: That was an encouraging
5 letter and it got our hopes up anyway, but that was the
6 end of it.

7 CHIEF FOBISTER: Frankly, most of these
8 letter that are -- you know, they come in those ridings
9 but we come to believe that those are not the words
10 that are signed by the Minister himself, it seems to be
11 letters coming from the bureaucracy.

12 MR. MARTEL: Did you people ever write a
13 letter to Mr. Scott asking him what those figures were
14 or to the Minister, Mr. Kerrio? I'm just looking
15 quickly through this and I might have missed it.

16 I'm reading it backwards. In fact Mr.
17 Scott's letter is the second last letter in the pile.
18 I'm just wondering if Treaty 3 asked -- since Scott
19 indicates that the costs were compiled, why -- if you
20 haven't, why you haven't asked for what those figures
21 were, based on the content of this letter?

22 CHIEF PERRAULT: I'm sure we wouldn't
23 have let it go there and why it's not here, I don't
24 know, and I couldn't begin to guess what the letter
25 would say, except asking the question that we would

1 obviously ask.

2 MR. MARTEL: Yes.

3 CHIEF PERRAULT: It's not here, so...

4 MR. MARTEL: Maybe it's just an
5 oversight, the letter is not here.

6 CHIEF PERRAULT: But had we had that
7 response, we would surely be aware of what that figure
8 is.

9 MR. MARTEL: Yes. I guess I'm just
10 surprised that once that's in there you wouldn't have
11 continued to push to get that, what that bottom line
12 was.

13 MR. COLBORNE: Mr. Martel, I can't give
14 evidence, but I would just remind you that this set was
15 identified as being representative of a sequence --

16 MR. MARTEL: Yes.

17 MR. COLBORNE: But as you can imagine,
18 this type of issue generates a tonne of paper and it's
19 not all here, clearly. If Mr. Freidin thinks that
20 there's something essential that was left out, I'm sure
21 he will find it.

22 It was an effort just to illustrate the
23 broad sequence of things, as opposed to each step of
24 the way.

25 MR. MARTEL: All right.

1 MR. COLBORNE: Q. And one final
2 question. You have given examples of why you say that
3 negotiations can be, the words, futile and fruitless
4 were used. Is Grand Council Treaty No. 3 ready,
5 willing and able to negotiate with Ontario and with the
6 federal government, if that is a necessary part of it,
7 in good faith and with a view to actually settling
8 these long outstanding issues?

9 CHIEF FOBISTER: A. In my -- there is a
10 process that we feel that could put a process -- a
11 negotiation process in place, would be an approach to
12 discuss an area where our interest lies, only where our
13 interest lies, and it's within an area where we
14 recognize to be an area of 55,000 square miles.

15 And we're engaging in a composity
16 building, of how we want to take an inventory of
17 resources, you know, what has been taken place in the
18 territory, we like to know, you know, how much, you
19 know, resources is taken out of the territory, we want
20 a co-management process as we take this inventory.

21 It's to do a study just even how much
22 taxes is taken out of the territory, how much logging
23 companies are -- stumpage fees are they collecting from
24 the logging companies, you know, because it's -- we
25 truly believe that, you know, the resources that are

1 extracted from the land.

2 You know, those are our resources and a
3 lot of those dollars that comes from the resources is
4 not actually spent in our area, it usually goes to
5 spend -- you know, to benefit the people in the south.
6 And we're concerned that -- we're concerned that, you
7 know, these dollars should be regionalized so people
8 can -- so it can go to the benefits and to our people
9 and the other residents that reside within our area.

10 And that's the thing that we want to
11 address is, we're often left out, if not the least, the
12 people left out for so long now that we believe we are
13 government because of, you know, our Treaty tells us
14 that, and these things have to be -- have to now to be
15 solved so we can start deciding as to where our --
16 where the future can go for our children.

17 We no longer want to be assimilated
18 because it obviously hasn't worked for us, we have
19 given away so many things, even our identity.

20 Tourist operators say they don't want to
21 work with us, but what are they doing with the Indian
22 symbols that they're selling for their tourist camps.
23 You go to names like Red Indian Lodge, Tomahawk Lodge,
24 the totem poles that they put in, you know, to sell
25 these things.

1 We are not interested in putting anybody
2 out of business, all we want to do is be part. And we
3 know we can't trap any more, we can't perhaps do many
4 things that we can't do any more, but to elevate, you
5 know, our standards, way of living and become partners
6 of the developments that go around this area as I've
7 spoken, and these are the things that we have to -- but
8 but I think, you know, we have to be recognized that we
9 are a government, you know, and we represent a
10 territory.

11 We're not only talking about, you know,
12 we are prepared maybe perhaps even to recognize, you
13 know, Fort Frances District, Kenora District, but do
14 they recognize Treaty 3 territory.

15 How many signs do you see in Canada that
16 would say you are now entering Treaty 3 territory,
17 please respect, you know, all things, wildlife and et
18 cetera.

19 You know, it's incredible, I find that
20 very, very -- very, very, you know, disheartening
21 because treaties will always exist, we will always push
22 for our original lives. The only time that there isn't
23 going to be no treaties in Canada is when there's no
24 more Indians.

25 CHIEF PERRAULT: A. In answer to your

1 question, I think we were exploring ways at a workshop
2 about a month ago as to how we can become involved in
3 activities dealing with economic development.

4 At that workshop there were
5 representatives from Treaty 3, from Ontario and from
6 Canada. There are workable processes out there that we
7 will get involved with. Our interest is in the
8 well-being and the economy of northwestern Ontario
9 which is our home, which is Treaty 3 territory, and we
10 are not going to drive business away from here or do
11 anything like that, but we are proud of our homeland
12 and we want to prosper in this part of Canada.

13 So, yes, we will be looking at and we are
14 looking at different processes.

15 MR. McINNES: A. I think maybe two
16 points on the willingness of Treaty 3 Nations to
17 negotiate. I think what should be clear here, you
18 know, is the fact that we have to have the opportunity
19 to mobilize. We look at the Government of Ontario and
20 the resource base that it has to draw on in terms of
21 your professional interest to bureacracies you have,
22 and interest groups you have, and when you negotiate
23 with Indian people, the Government of Ontario can draw
24 on these things, these strengths of yours.

25 These kind of skills, these attributes

1 also exist in Indian country through our elders,
2 through our resources in a traditional sense that have
3 always been there and handed down from generation to
4 generation. What needs to happen, what needs to be
5 assured in Indian negotiations, is that we have that
6 opportunity to prepare.

7 MR. MARTEL: Can I ask a question, Mr.
8 McInnes. This bothered me, and maybe it's only my
9 perception, but it would appear that there is -
10 although it seems to be coming now - no unified voice
11 in the Indian community and that might have been one of
12 the drawbacks to making progress.

13 I mean, there's nothing easier to not
14 have to respond to when there are 10 different
15 positions on any issue - it doesn't matter whether it's
16 an Indian issue - I'm talking about any issue, and do
17 you see that as a problem, because you're right on,
18 you're saying we have to go as a force, but unless you
19 go unified you're not heard as clearly, I don't think.

20 MR. MCINNES: I think, you know,
21 generally speaking we've been speaking to this issue,
22 you know, we've been talking about dependency and
23 oppression in a competitive environment we've been
24 submitted to live in.

25 That in a sense hints about disunity, but

1 I think our efforts and our submissions to the
2 Government of Ontario say there is unity here and
3 certainly if we were resourced enough, unity could and
4 would occur.

5 Since '86 -- since '85, specifically the
6 fishing, there is unity there. I think the Bands have
7 said themselves numerous times since that time, since
8 '85, they are willing to settle land and resource
9 rights.

10 But what our communities and our
11 leaderships need to be assured they will have that
12 opportunity to negotiate or discuss those rights as it
13 pertains to them individually. We have to have that
14 understanding, that assurance.

15 Now, there is a perception, you know,
16 resources on Crown lands have no Indian ownership and
17 yet we signed this Treaty that encompasses 55,000
18 square miles. So there is perception problems, there
19 is reality problems, differences that exist between us.

20 There has to be a common philosophy here
21 that we can reach and agree to that will govern our
22 collaborative effort, so to speak, we have to have that
23 built up and you will have full cooperation.

24 CHIEF FOBISTER: I just want to expand on
25 what Mr. McInnes has said, is the fact that one example

1 of that is that we know our people are out there, most
2 don't reside -- in our communities they are either
3 aligned themselves either with the Metis, either with
4 the Urban Indian Alliance or the friendship centres,
5 but it's often difficult to convince the provincial
6 government that we want to deal with them on a
7 government to government basis.

8 There's a time that they have to
9 recognize that we are the government because we're
10 elected, and often we are resourced in such a manner
11 that as long as you represent an organization around
12 there then you are funded to participate in some sort
13 and that creates a lot of confusion, a lot of
14 confusion, then you have to work with 20, 30, 40
15 groups. How are you ever going to compromise something
16 when they're doing the same thing as what the
17 governments are trying to do.

18 But it's been that type of a thing and
19 now we're saying, we are going to -- you know, you have
20 to talk to us if there's going to be, if we are going
21 to get somewhere.

22 CHIEF PERRAULT: I would just like to
23 make one quick statement. When I spoke before of
24 looking for these different processes with Ontario,
25 with Canada and Treaty 3, I'm convinced that we can

1 search out something that Ontario might be able to put
2 in place to help us build this economy in northwestern
3 Ontario, some legislation maybe on a number of
4 different areas that would recognize certain
5 obligations in the Treaty itself, fishing, something in
6 and around the fishing, tourism area, or even in
7 forestry. We have to search those things out.

8 Something that I raised about people that
9 come into Treaty 3 territory from the United States.
10 We live on a border community here and at any time of
11 the day I can look out my window - and the highway runs
12 in front of my place - and there's not two, three
13 minutes that goes by and I don't see an American
14 vehicle dragging a boat.

15 I'm not sure how much dollars they leave
16 in this part of our country, but I'm sure they buy a
17 fishing licence and that might be the total extent of
18 it. They're bringing their gas, their food and
19 everything else and they're coming in and taking the
20 resources and going back home.

21 What I am suggesting to certain people is
22 that let's sit down and let's look at something that
23 would respect Treaty No. 3. If you want to make us bad
24 guys, we'll be bad guys to the Americans and tell them,
25 no, you don't bring your boats in here, if you're going

1 to come and fish here, you stay in our tourist camps,
2 you use our boats, use our people for guides and things
3 like that.

4 You know, let's search for those kinds of
5 things, some kind of a cooperation. We need to build
6 our economy here, and I can see just a steady stream of
7 resources leaving the country with very little benefit
8 coming into Ontario.

9 MR. COLBORNE: Thank you. Those are my
10 questions.

11 MADAM CHAIR: Thank you very much,
12 gentlemen.

13 Do your witnesses need a break before we
14 go into cross-examination, Mr. Colborne?

15 MR. COLBORNE: Yes, a brief break

16 MADAM CHAIR: All right. We will take a
17 15-minute break.

18 ---Recess taken at 8:00 p.m.

19 ---On resuming at 8:20 p.m.

20 MADAM CHAIR: Please be seated.

21 Mr. Cassidy, are you going to be
22 cross-examining?

23 MR. CASSIDY: No.

24 MADAM CHAIR: Thank you very much.

25 Ms. Gillespie, are you going to be

1 cross-examining?

2 MS. GILLESPIE: Yes, I am.

3 MADAM CHAIR: Perhaps we will wait for
4 Mr. McInnes.

5 How long are you going to be in
6 cross-examination, Mr. Freidin?

7 MR. FREIDIN: I was wondering what
8 incentive I could give the witnesses to give me short
9 answers, but I think maybe an hour at the outside.
10 That is just a guess.

11 MS. GILLESPIE: I just have a few
12 questions for the panel.

13 CROSS-EXAMINATION BY MS. GILLESPIE:

14 Q. As I understand the evidence that
15 we've heard from Treaty 3, your evidence is that the
16 present form of timber activities has had a severe
17 impact on the native traditional way of life.

18 Is that a fair summary of the Treaty 3
19 evidence?

20 CHIEF FOBISTER: A. That's true, yes.

21 Q. And the source of impacts that you've
22 described have included hunting, trapping, fishing,
23 spiritual concerns, berry picking and medicinal plants.

24 Is there anything else that I've left out
25 of that summary?

1 A. I think the, you know, the physical
2 attraction of the land.

3 Q. The landscape itself?

4 A. The landscape itself is --

5 Q. In the Treaty No. 3 draft terms and
6 conditions in this hearing, paragraph 4 refers to a
7 request for a clause reserving the right to withdraw up
8 to 20 per cent of subject timber rights to satisfy
9 agreements to be made with Indian groups.

10 Have you got a copy of your draft terms
11 and conditions? Do you see the paragraph I'm referring
12 to?

13 A. Yes.

14 Q. Now, do I understand from your
15 evidence that you intend to deal with your communities'
16 concerns with respect to timber activities on that
17 portion, up to 20 per cent you're referring to in
18 paragraph 4, through negotiated agreements?

19 A. I believe that would be the procedure
20 that we would be -- that the Chiefs would undertake.

21 Q. And you've given evidence, as I
22 understand it, that you have changes that you want to
23 make to timber management and any operations that you'd
24 be carrying on to prevent, remedy or mitigate any
25 negative effects and to obtain the benefit of timber

1 activities?

2 A. That certainly our objective.

3 Q. And some of the changes that you've
4 told us about were selective forest cutting and
5 opposition to clearcuts and balanced objectives and
6 planned regeneration.

7 A. Yes, I think we talked in those
8 terms. Just to clarify, we need more studies in terms
9 to be really convinced, you know, about this
10 clearcutting. If there is a mechanism which something
11 is placed upon where a balance is considered, you know,
12 there is a place to compromise.

13 Q. Are there any other sorts of changes
14 of a general nature to timber management activities
15 that you're proposing at this time to prevent, remedy
16 or mitigate negative effects?

17 A. I believe the process will take care
18 of that.

19 Q. That's the negotiation process?

20 A. Yes.

21 Q. And the negotiation process you've
22 described would be relevant to that 20 per cent where
23 you'd be receiving the allocation and carrying on your
24 own timber management activities. Is that a summary of
25 your position?

1 A. I don't know whether I should put it,
2 you know, directly specific in those terms, but if we
3 could get an understanding, you know, participation is
4 something we are looking at in terms of we are as, you
5 know, as a government and some authority should, you
6 know, should be considered also in that process.

7 Q. With respect to timber activities
8 that are carried on by other groups outside of the
9 types of agreements that you're talking about, your
10 communities may be affected by those timber activities
11 as well?

12 A. Yes, you can say that.

13 Q. So would your communities have an
14 interest in participating in the planning process with
15 respect to those timber activities as well?

16 A. I believe that we have something to
17 offer, you know, it's not that we want to stop
18 everything.

19 Q. There may be some benefit to your
20 communities to continuing to participate--

21 A. Yes.

22 Q. --even outside negotiated agreements?

23 A. Yes.

24 Q. And is it your position that the
25 sorts of changes that you're suggesting would be of a

1 benefit in your own timber operations would also be of
2 benefit in other timber operations?

3 A. I think we're talking about, you
4 know, everything as an overall in one concept, it's not
5 that we want to treat special groups any different.

6 Q. So when you're recommending certain
7 types of timber activities, you would recommend having
8 those incorporated into general timber management
9 planning as well?

10 CHIEF PERRAULT: A. I think we would
11 like to have a look at the best of both worlds in
12 managing the forestry and the timber resources.

13 Right now I guess our feeling is that
14 we're totally ignored on some of the suggestions that
15 we might be able to offer and some of those agreements
16 must take a look at, you know, at each other's
17 different ways of wanting to manage, and we can
18 probably come up with something that will be beneficial
19 to the whole territory.

20 Q. I understand there has been some
21 evidence in this hearing from the Ministry of Natural
22 Resources concerning a sustainable forestry program,
23 one part of it is a community forestry project.

24 Our understanding of that community
25 forestry proposal is a system where the local community

1 sets the objectives for forest management, discusses
2 the planning, carries out the activities and shares in
3 the economic benefits.

4 Could such a community based forestry
5 project alleviate the problems that Native communities
6 have experienced in connection with timber activities?

7 CHIEF FOBISTER: A. I can say that, you
8 know, as long as we have, you know, a large say just,
9 you know, what kind of impacts that go around our areas
10 of concern, say, for each community, the places where
11 we have to engage our livelihood in an area.

12 Q. And would a community based forestry
13 project address the sort of concern you raise in
14 paragraph 31 of your statement where you're suggesting
15 that the decision-making should be in the local people;
16 is that the sort of thing you're talking about?

17 A. Yes, particularly, you know, each
18 band has recognized -- has already established, have
19 established what they call traditional land use areas
20 and their concerns are within these areas.

21 They may vary maybe 2,000 square miles of
22 an area and that's their responsibility within that
23 area to enhance protection and to see if that resource
24 within any area, any resources, are utilized in the
25 best way and best interest for any -- for their people

1 and other users.

2 Q. As I understood your evidence in your
3 witness statement, at page 3, paragraphs 10 to 12, you
4 are not asking the Board to not approve this
5 undertaking; is that correct, from those paragraphs?

6 CHIEF PERRAULT: A. Would you repeat
7 that question.

8 Q. That was a double negative, I'm
9 sorry. Is it fair to say that you are not asking the
10 Board to reject the approval of this undertaking?

11 CHIEF FOBISTER: A. We have the power to
12 disapprove of undertaking?

13 Q. I'm sorry, I didn't hear...
14 The reason --

15 MR. CASSIDY: Shut her right down.

16 CHIEF FOBISTER: You know, I can say
17 that, no.

18 MS. GILLESPIE: Q. Now, I take it that
19 is --

20 CHIEF PERRAULT: A. I think I'm a little
21 confused as to the question--

22 Q. Okay.

23 A. --and the answer. I think the way my
24 understanding is if we were speaking on behalf of
25 Ojibway people only in this matter, our recommendation

1 then, or we would be saying that there should be no
2 activity in the forest, is what the statement says,
3 but...

4 Q. But you've said that you're not
5 interested in stopping all activity and you're not
6 asking the Board to reject the approval in a blanket
7 way?

8 The reason -- let me explain. The reason
9 that I'm asking that is that in your draft terms and
10 conditions the first position seems to be that you're
11 asking that the approval not be given, and I wondered
12 whether there was a change from that position when I
13 read paragraph 10 -- paragraph 10 to 12

14 MR. COLBORNE: I think the question might
15 be more understandable to the panel if not expressed in
16 the technical terms that we who have been here for
17 years are familiar with; and, that is, the undertaking
18 and approval. These are words that I don't use outside
19 of this room.

20 MS. GILLESPIE: Well, perhaps you can
21 help me, Mr. Colborne. Is this a change from
22 paragraph 1 of the terms and conditions? It just
23 seemed to me that paragraph 10 was a change from the
24 draft terms and conditions.

25 MR. COLBORNE: Well, I won't give

1 evidence. Maybe it would help just by saying that all
2 parties here recognize that we are operating in the
3 real world, and I think that the parts of the witness
4 statement that you're interested in are attempts to
5 deal with what is likely in store as opposed to
6 representing some changing position.

7 MS. GILLESPIE: Q. I also noticed on
8 page 2 of the terms and conditions there's a reference
9 to the effect that they have not been approved, and I
10 wondered whether they have now been approved and do
11 respect the policy of Grand Council No. 3?

12 CHIEF PERRAULT: A. These terms have
13 been approved in assembly.

14 Q. Okay.

15 A. And I don't know what the date is on
16 this, but I know -- I'm pretty sure, okay, January,
17 '90.

18 MR. COLBORNE: I can help with that.
19 This was referred to, but I don't think on the record
20 yet, because the documents containing the proposed
21 terms and conditions have, generally speaking, been
22 dealt with on the negotiation side as opposed to before
23 the Board.

24 At the negotiations the parties were all
25 advised by myself that these did obtain approval in

1 February of 1990 by the Chiefs of Treaty 3, and so I
2 don't mind saying that now. These proposed terms and
3 conditions do now have formal and approved status.

4 MS. GILLESPIE: Okay. Those are all my
5 questions, madam Chair.

6 MADAM CHAIR: Thank you, Ms. Gillespie.

7 Mr. Freidin?

8 MR. FREIDIN: Yes.

9 CROSS-EXAMINATION BY MR. FREIDIN:

10 Q. If I could just begin by dealing with
11 the draft terms and conditions. I'm still not clear on
12 the position of Grand Council Treaty No. 3 as set out
13 in the preamble on page 2.

14 Leaving aside, or trying not to use
15 technical words, what paragraph 1 and 2 mean when they
16 say that:

17 "The class environmental assessment
18 should not be accepted and approval
19 should not be given...", it's basically
20 saying that Ministry of Natural Resources should not be
21 permitted to continue to build access roads, to harvest
22 timber, to renew the forest, to tend the forest or
23 protect it from insects or disease. That's what it
24 means as a matter of law.

25 Is Treaty No. 3 actually taking that

1 position and saying that MNR should not be given
2 permission to continue to do those things, or is it
3 really taking the position that approval should be
4 granted but pursuant to certain conditions?

5 CHIEF FOBISTER: A. I think what we're
6 saying is while MNR's conducting these approvals and
7 giving out licence to cut and to do certain activities
8 within our land, and here we are trying to negotiate
9 with these people.

10 You know, by the time we finish
11 negotiations there's nothing left to negotiate. You
12 know, there's got to be certain conditions that we have
13 to start, you know, on an equal basis, you know. What
14 is the reason them to negotiate when, you know, when
15 you're not going to have anything at the end.

16 CHIEF PERRAULT: A. If I can add
17 something. MNR we recognize as having other areas of
18 the Province of Ontario to consider, what we talk about
19 is our Treaty territory.

20 Q. All right.

21 A. 55,000 square miles, and the activity
22 that happens in other parts of Ontario is a concern to
23 us, but we feel we have no authority in making
24 suggestions about other parts of Ontario.

25 Q. All right. How does your position

1 differ then in relation to parts of Ontario other than
2 Treaty No. 3?

3 What's the difference -- what difference
4 should the Board -- how should they deal differently
5 with the areas outside of Treaty No. 3 and the areas
6 within Treaty No. 3?

7 A. Well, I would hope that in the other
8 areas of the province that Indian people would be
9 involved in any of these things, and activities that
10 MNR seems to claim sole responsibility for, a number of
11 the activities that you mention would not have to take
12 place -- if there was no activity in the forest you
13 wouldn't have to regenerate, if there was no roads in
14 there to get the wood out and...

15 Q. I think I can be a little bit more
16 direct if I can file copies of the interrogatories,
17 because really what I'm getting at is the issue which
18 is raised in paragraph 31 of your witness statement and
19 to which you all spoke; and, that is, local
20 decision-making power and what that really means.

21 MR. FREIDIN: So if I might just take a
22 - moment, I would like to file as the next exhibit copies
23 of the MNR's interrogatories and answers thereto on
24 this particular panel. (handed)

25 MADAM CHAIR: That will be Exhibit 1893.

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1 trees have been taken away, they are
2 people who represent the land, most of
3 them are Ojibways."

4 Which people are local but are not
5 Ojibways that you say would constitute local people who
6 would have this decision-making power?

7 CHIEF FOBISTER: A. It's the people who
8 are members of our community. In this case you're
9 looking at the people who reside in the 26 reserves
10 Treaty 3 territory, or 25.

11 Q. All right. So that is what you mean
12 by local people?

13 A. Yes.

14 Q. You were then asked the next
15 question:

16 "Do Grand Council Treaty No. 3 agree
17 that there is a need for provincial
18 policy reporting and forecasting with
19 respect to the management of timber
20 resources? If so, how would this be
21 accomplished in the proposed management
22 system; if not, why not?"

23 Your answer was:

24 "No, not in its present form where
25 local people have no power. When local

1 people do have power, the provincial
2 government will no doubt need policies
3 and an apparatus to manage its remaining
4 duties."

5 I am not clear as to what duties you
6 foresee the Ministry of Natural Resources continuing to
7 exercise in relation to decisions about where, when,
8 and how to build roads, harvest timber, renew the
9 forest and tend the forest.

10 I don't understand what duties you expect
11 that they will continue to have in the Treaty No. 3
12 area or whether you're making a proposal in relation to
13 that.

14 A. One of the things that I just from --
15 we've had very little experience with MNR in this
16 regard, but what we're suggesting here is: Wouldn't it
17 be a lot better, you know, if an arrangement with the
18 specific territory where they're engaging in this
19 practice, with the Band that they're encroaching in
20 their territory in any activity, isn't it better that
21 they work with them?

22 Q. I agree that -- no one is arguing the
23 point that people should work with your people and with
24 anybody else that could be affected by timber
25 management operations.

1 But there's a difference, the way I look
2 at it, between consulting, taking into consideration,
3 making even joint decisions, but what I interpret some
4 of your answers to interrogatories to say is that
5 Treaty No. 3 -- you're proposing that Treaty No. 3 have
6 the final say on where and when and how these
7 activities take place.

8 If I'm misinterpreting the answers to
9 interrogatories, please tell me so.

10 A. Yes, that's basically what I'm
11 saying. You know, we believe that we should be given
12 certain authority, and that is the only way that we can
13 be responsible for our own decisions.

14 Q. And are you saying that that sort of
15 decision-making power is something which should apply
16 to the entire Treaty No. 3 area, the 55,000 square
17 miles that you've described, or part of it or --

18 A. We visualize ourselves as -- we have
19 a great interest in this territory, perhaps more than
20 anybody else, and we have benefits, you know, long
21 before anybody else did. So it is with that authority
22 that we still believe within our own mind.

23 Q. Okay. Let's just jump down to 6(f),
24 I started all this questioning because I was looking at
25 your draft terms and conditions and trying to figure

1 out what your position was in relation to what this
2 Board is doing.

3 The question was:

4 "Does Treaty No. 3 propose that the
5 Environmental Assessment Board not
6 provide standard minimum requirements for
7 timber management activities and planning
8 in the area of the undertaking?"

9 Your answer was:

10 "No. These will be required where
11 there is no Indian government
12 participation. Where there is Indian
13 government participation, they would be
14 required for reference or adoption."

15 Again, are you saying that this Board's
16 decision after hearing evidence from all parties,
17 including Treaty No. 3, that their decision as to how
18 timber management activities should be carried out in
19 order to protect the environment should not apply to
20 Treaty No. 3 area. Is that what you're saying in that
21 answer?

22 CHIEF PERRAULT: A. I don't think we
23 know what the end product is going to be.

24 Q. All right.

25 A. And how can we say if we agree with

1 what -- without knowing if certain positions of Treaty
2 3 are going to be respected or not, how can we continue
3 to say that we agree or disagree with anything we don't
4 know of.

5 Q. All right. You might disagree -- the
6 Board might make a decision and you may not like it,
7 and there are, you know, avenues of appeal, et cetera,
8 but as a starting point, the Board has been charged
9 with the responsibility to hear evidence from all the
10 interested parties and they have heard evidence from a
11 lot of people about their concerns about the effects of
12 or potential effects of timber management on a whole
13 number of things; trapping, fishing, hunting, remote
14 tourism, and the Board is going to come up with a
15 decision and say: The way to make sure that those
16 unacceptable adverse effects don't happen is to do A, B
17 or C.

18 And I always -- I thought that if they
19 come up with that decision after hearing all that
20 evidence, and it's a good decision, it would make sense
21 that that decision would apply and control timber
22 management activities across the whole area of the
23 undertaking, including Treaty No. 3 area, and that
24 would be of benefit to you as the Native people who
25 live in this area.

1 But when I read your answer you're
2 saying, no, you don't want this Board's decision to
3 apply to Treaty No. 3 area.

4 And that is why I am somewhat confused.

5 CHIEF FOBISTER: A. I am more or less
6 saying that MNR walked into, if I can recall, and said
7 that the Board had nothing to make -- didn't have --
8 shouldn't make any decision or recommendation, and I
9 take that as -- that they don't.

10 I frankly feel that, you know, the final
11 end of the whole package is going to be perhaps to use
12 that guide, you know, when you -- when Treaty 3 and the
13 province will sit down to negotiate these things. I
14 cannot say that, you know, that we are going to support
15 what the Board says, or to have that power.

16 Q. All right.

17 CHIEF PERRAULT: A. If the Board makes a
18 decision and we don't know what that is, what we're
19 saying is in Treaty 3 territory, which is under Treaty
20 No. 3 the agreement of sharing what was here in
21 resources and allowing settlement and things like that,
22 and all the notes that surround the Treaty and all the
23 things that go along with the Treaty is completely
24 different than what happens in Mohawk Territory in
25 southern Ontario, we have no say over what happens in

1 other peoples' territory.

2 Q. All right. Let's just deal with your
3 territory.

4 Mr. Martel raised the question that, you
5 know, you indicated you are just beginning to deal with
6 the new government in terms of dealing with aboriginal
7 and Treaty rights and the whole issue of access to
8 resources; that may not be settled tomorrow, that may
9 take a number of years to be finally resolved.

10 In the meantime there are these timber
11 management activities which are being planned for the
12 entire area of the undertaking including Treaty No. 3
13 area.

14 You've indicated to Ms. Gillespie that
15 you thought you should continue to be involved, as I
16 understood your answer, in the planning process that is
17 going on all the time in relation to those activities.

18 I therefore expected that you would say
19 that until there's a final resolution and agreement on
20 our aboriginal and Treaty rights, that this Board's
21 decision should have an effect on how activities are
22 taking place in Treaty No. 3 area.

23 CHIEF PERRAULT: A. It would go with
24 what we understand to be our aboriginal and Treaty
25 rights. We don't dispute our claims, or our beliefs

1 about what our treaties are, it's the non-Indian
2 governments that dispute that.

3 You're asking, should MNR continue to be
4 the authority that does all of these activities, are
5 you saying that excluding Treaty 3 people--

6 Q. No.

7 A. --in the decision-making within
8 Treaty 3 territory?

9 Q. I think what I am saying is, at the
10 present time the Ministry of Natural Resources have
11 taken on the responsibility to make those decisions and
12 Chief Fobister has indicated --

13 A. And you can understand our fears.

14 Q. Are you saying -- is it your position
15 that the Ministry of Natural Resources should now,
16 before there is a resolution of these Treaty and
17 aboriginal rights, divest themselves of this authority
18 and only carry on timber management activities in the
19 area of the undertaking if they are approved -- in the
20 Treaty 3 area, if they are approved by Treaty No. 3?

21 CHIEF FOBISTER: A. I don't know whether
22 it -- you know, if it means -- you know, even if we say
23 that, if we make that statement and we've always
24 maintained that they should consult with us, it never
25 mattered.

1 That's up to MNR whether they use their
2 discretion whether to maintain their authority; whether
3 under any circumstances we will continue to oppose, you
4 know, anything that they do from here on.

5 MADAM CHAIR: That answer's pretty clear,
6 Mr. Freidin.

7 MR. FREIDIN: Q. In paragraphs 37 and
8 39 -- paragraph 37 you refer to joint ventures, and in
9 paragraph 39 you refer to co-management.

10 When you use those terms are you talking
11 about an arrangement where the final decision as to
12 what will occur in the Treaty No. 3 area is a decision
13 which rests solely with Treaty No. 3 people?

14 CHIEF FOBISTER: A. Not specifically.
15 The co-management, when we talk about is, you know, we
16 respect each others, you know, what is the best way we
17 can answer, find solutions.

18 Q. Reference was made during your
19 evidence, I think it was Chief Perrault - I'll just
20 find the reference here - refer to the fact that you
21 were now in discussion with a new government in
22 Ontario.

23 And I am going to show you a letter
24 (handed) dated May the 15th, 1991, it's written to you
25 Chief Fobister, and can you advise if that letter from

1 Mr. Wildman is the letter which began the discussions
2 that you refer to which are taking place with the new
3 government?

4 MADAM CHAIR: Do you want us to have a
5 copy, Mr. Freidin?

6 MR. FREIDIN: (handed)

7 MADAM CHAIR: Thank you.

8 MR. FREIDIN: I can tell you, I don't
9 intend to get into the details of this, I just want to
10 identify whether that is the letter which refers to the
11 discussions that you were talking about.

12 CHIEF PERRAULT: No, it doesn't, not the
13 discussions that I referred to. The discussions that I
14 referred to was Ontario Premier and some of the
15 Ministers made an initial visit to Fort Frances--

16 MR. FREIDIN: Q. Right.

17 CHIEF PERRAULT: A. --and met with some
18 of the Chiefs. That's my -- I guess to have an initial
19 meeting to see if there was a possibility that Treaty 3
20 and the Ontario government could further those types of
21 meetings--

22 Q. All right.

23 A. --to deal with issues. That's what I
24 meant. And I guess further to that, you know, we
25 still -- what I was talking about was a recognition by

1 a Premier making certain statements that we haven't
2 heard before which we wanted to hear.

3 Q. So that is one development which --

4 A. I guess I am a politician, I like
5 hearing those statements, but --

6 Q. That's fine. We heard some evidence
7 the other day about the meeting where the Minister --
8 the Premier and some of the Ministers came to Fort
9 Frances. So I can just maybe go to the letter.

10 Chief Fobister, could you just
11 acknowledge that this letter was in fact received by
12 you?

13 CHIEF FOBISTER: A. Yes.

14 MR. FREIDIN: And could that letter then
15 be marked as the next exhibit, Madam Chair.

16 MADAM CHAIR: That will be Exhibit 1894.

17 ---EXHIBIT NO. 1894: Letter dated May the 15th, 1991
18 addressed to Chief Fobister.

19 MR. FREIDIN: Q. And am I correct that
20 there has been at least one subsequent meeting in
21 relation to this matter and there is an expectation
22 that further meetings will be held?

23 CHIEF FOBISTER: A. Yes. I would like
24 to clarify one position though, that whatever process
25 that's undertaken in all Ontario within the Chiefs of

1 Ontario office where the six representative territorial
2 groups are involved we are participating in area in
3 principle with the relationship clause, but we are
4 engaged -- we are going to be in a dialogue now in with
5 Treaty 3 area.

6 Q. Between the government and Treaty No.
7 3?

8 A. Yes, that specifically, there is a
9 reason for that.

10 Q. All right. And that's a discussion
11 which is taking place as a result of this letter?

12 A. This results specifically for Treaty
13 3.

14 Q. Right, this letter that we are
15 talking about?

16 A. Yes.

17 Q. Yes, okay. Just so I can get some
18 filing out of the way. There was reference I think by
19 you, Chief Perrault, to the leniency policy and you
20 made reference to the fact that there had been some
21 changes in relation to that.

22 I am going to show you and the other
23 members of the panel a document entitled -- pardon me,
24 dated May the 7th, 1991, it is entitled Interim
25 Enforcement Policy. (handed)

1 I'm just wondering whether you could
2 confirm that this is a document which you have seen and
3 which in fact is the policy in relation to enforcement
4 of the Game and Fish Act, the Fisheries Act and the
5 Migratory Bird Convention Act as it relates to status
6 birds in Ontario. Perhaps I could just -- can I just
7 take one of those. (handed)

8 MADAM CHAIR: Thank you.

9 MR. FREIDIN: Q. Are you able to confirm
10 that that is in fact the document that I referred to?

11 CHIEF FOBISTER: A. Yes.

12 MR. FREIDIN: And if that can be marked
13 as the next exhibit.

14 MADAM CHAIR: Certainly, Mr. Freidin.
15 That will be Exhibit 1895.

16 So much correspondence going back and
17 forth between MNR and the parties, maybe the Board
18 should be put on the mailing and it would save making
19 all these exhibits.

20 MR. FREIDIN: Well, they'd have to be
21 made exhibits anyway before you could rely on them,
22 Madam Chair, so...

23 MR. MARTEL: Another three acres of trees
24 went today.

25 MADAM CHAIR: What are we going to call

1 this document, Mr. Freidin?

2 MR. FREIDIN: I think Interim Enforcement
3 Policy of the Ontario Government in relation to the
4 Game and Fish Act, the Fisheries Act, and the Migratory
5 Bird Convention Act.

6 MADAM CHAIR: I think the date on that is
7 May 7th, 1991.

8 MR. FREIDIN: Yes.

9 MADAM CHAIR: Did I say it's Exhibit
10 1895?

11 MR. FREIDIN: Yes.

12 ---EXHIBIT NO. 1895: Document dated May 7th, 1991,
13 entitled: Interim Enforcement
14 Policy re: Game and Fish Act,
15 Fisheries Act, and Migratory Bird
Convention Act in relation to
Aboriginal People in Ontario.

16 MR. FREIDIN: Maybe we should add the
17 words in relation to status Indians in Ontario -- I'm
18 sorry, Aboriginal People in Ontario. There's reference
19 to Native people other than status Indians.

20 Q. I want to deal with a matter which is
21 raised on page 9 of your witness statement, and the
22 matter I want to deal with is set out in paragraph
23 47 -- begins on paragraph 47 and it relates to the
24 issue which has been raised in the witness statement,
25 or the concept which has been described as

1 environmental rights.

2 We asked an interrogatory about this and
3 it's Interrogatory No. 8 and if you could just turn to
4 that as well. Interrogatory No. 8 in relation to
5 paragraph 47 asked in Question sub (a):

6 "Are the environmental rights of
7 Treaty No. 3 Ojibway a component or
8 incident of Treaty and/or aboriginal
9 rights or something separate? Please
10 explain."

11 And the answer was:

12 "They are a component or incident of
13 Treaty and aboriginal rights. These are
14 constitutionally protected rights in
15 land but they are meaningless if the
16 environment required for their
17 continuance are destroyed, therefore, the
18 holders of such rights also have
19 environmental rights."

20 And you give an illustration of that:

21 "Being the treaty right to fish which
22 would be meaningless if the environment
23 which fish require for life is
24 destroyed."

25 In a nutshell I understand this concept

1 to be that for there to be an ability to exercise a
2 Treaty right in relation to fish or wildlife that their
3 habitat has to be protected.

4 Is that in effect what you're saying, and
5 the environmental right is to ensure or to have a say
6 that that habitat is not adversely affected?

7 CHIEF FOBISTER: A. Yes. We mean it
8 that, you know, environmental rights should be a
9 priority.

10 Q. Do you agree with me that what
11 that -- well, it should be a priority, but the priority
12 is to protect the habitat that those fish and the
13 wildlife rely upon?

14 A. In a sense, you know, from other
15 types of intrusion, I think they have to be -- there
16 has to be a recognition of that.

17 Q. And what has to take place in order
18 for that environmental right to be protected; how is it
19 protected?

20 A. How is it protected?

21 Q. (nodding affirmatively)

22 A. As you can say we are protect -- for
23 us there has to be -- in our judgment, we feel that we
24 are the protectors.

25 Q. And do you protect that environmental

1 right by making sure that the environment, the habitat
2 that the animals, the fish live in is not adversely
3 affected?

4 A. Give me an example of what you mean.
5 I don't understand.

6 Q. All right. If you have a Treaty
7 right -- I understand this to say you have a Treaty
8 right to hunt, that the animals that you hunt rely on
9 the forest for their habitat, but if you don't protect
10 the habitat then your Treaty right is meaningless.
11 That's what I understand you to mean by that, and is
12 that right?

13 A. Well, that's what the elders are
14 telling us.

15 Q. And is that what is meant by
16 environmental rights?

17 A. I don't know. You say it's
18 environmental rights, but what we're saying is that
19 there is -- you know, there is a Treaty interpretation,
20 Treaty 3 interpretation that one of the specific things
21 is that it has environmental concerns that speak about
22 it.

23 Q. Those are environmental concerns over
24 and above the ability to continue to carry on your
25 traditional activities of hunting, fishing and

1 trapping?

2 A. I'm not -- in those days how it
3 appeared on the expression on the treaties is written
4 by Canada. You know, if we say it in our own language
5 it means more than what you can ever interpret.

6 CHIEF PERRAULT: A. I am having
7 difficulty understanding. I think maybe it's just the
8 process, but if I'm taking a walk to the door over
9 there with you, you're taking me to that corner first
10 and then -- but that's your, I guess your way of
11 getting around to a point.

12 It's a little difficult to -- if we want
13 to go to the door, let's go to the door.

14 Q. Well, the word was put in your
15 witness statement and I'm -- and maybe Mr. Colborne is
16 the one that can help me, maybe this is a legal issue.

17 MR. COLBORNE: Well, I think that is the
18 problem, if I could interject. These are lay
19 witnesses, they are not experts and they are not here
20 with the duty to enter into discussions of points of
21 law and what we are now addressing is one which is on
22 the border line between questions of fact and policy -
23 which these witnesses are certainly here to answer -
24 and questions of law - which they are not here to
25 answer - and I think possibly the difficulty is that

1 we're shading over into the points which are legal
2 questions.

3 The Board will notice that the answer to
4 Question 8(d) was that:

5 "It appears that legal argument is
6 being requested by way of an
7 interrogatory."

8 And Mr. Freidin knows that his associate,
9 Ms. Murphy, was provided with legal authority by me at
10 her request on this point, and so my submission now is
11 that perhaps the Board should be alert to drawing a
12 line with respect to Mr. Freidin's questions where they
13 turn from asking the witnesses about facts and about
14 the policy of Grand Council Treaty 3 into asking these
15 witnesses for legal opinions, which they don't have any
16 duty to give here.

17 MR. FREIDIN: Let me see if I can ask a
18 factual question.

19 Q. This is just a hypothetical. If your
20 Treaty right in relation to fish was that you were only
21 allowed to catch one fish for every band in Treaty No.
22 3, on the one hand, and if, on the other hand, your
23 Treaty right was to catch as many fish as could be
24 utilized by your people for personal and commercial
25 use, all right, would you agree with me that the degree

1 to which one could affect the habitat of those fish
2 without adversely affecting your Treaty right would be
3 quite different?

4 CHIEF FOBISTER: A. No, I wouldn't think
5 so because, you know, we have the concern of the
6 environmental issue, but we're also conservationists
7 and preservationists.

8 I think your statement is that you're
9 asking us, perhaps we have to be a little more stricter
10 if we become a larger population.

11 CHIEF PERRAULT: A. I think your
12 hypothetical example takes the assumption that we have
13 no interest in seeing the fish continue to live.

14 But let me just say that I live on a lake
15 over here, Rainy Lake, and the amount of fish that
16 people in my community take out of there -- I got into
17 a discussion one time with a few people from Fort
18 Frances and they were asking me about taking fish in
19 the spring when they're spawning - not that we wouldn't
20 have in our own system, in our own community, our own
21 government a way to regulate that - but I guess their
22 point was, you take fish when they're spawning.

23 And if that was true, and for my
24 community, which is one of the largest communities, I
25 know of a practice that used to go on that doesn't go

1 on any more where you would take fish in the spring,
2 putting the nets out, like, when the fish are, you
3 know, coming close to rivers or something like that,
4 but the amount of fish that is taken at that time for a
5 very short period of time, let's say for an example,
6 for that community was a thousand fish. Sounds like a
7 lot.

8 But from May 18th, or whenever that
9 Saturday is, well into the winter, the next year, the
10 amount of boats that are on Rainy lake, the amount of
11 people fishing throughout that period and the amount of
12 walleyes that are taken during that time far exceeds
13 the amount of fish that were taken at that time of the
14 spawn.

15 And the point they said: Yeah, but at
16 the time of the spawn, you know, they're spawning,
17 they're going to replenish the stocks, can you tell me
18 that those fish that are caught throughout the summer
19 and through the fall and the winter do not spawn the
20 next year?

21 So, I don't understand really where we
22 were going with whatever it is that you were asking.
23 And your hypothetical question assumes that we do not
24 care about protecting the amount of resource that is
25 there and we do.

1 Q. Right. And what I was doing in my
2 hypothetical was making a distinction between what your
3 concern would be about the fish populations and what
4 your Treaty right might be.

5 My hypothetical was just dealing with
6 what your Treaty right would be, and I was just trying
7 to see whether you gentlemen would agree with me that
8 the habitat could be affected much more if your Treaty
9 right was just to be able to have one fish per band,
10 but if your Treaty right was to make sure you couldn't
11 have any activities which would adversely affect your
12 ability to take as many fish as you wanted for personal
13 or commercial purposes, the habitat would have to be
14 much more carefully managed.

15 Just a pure hypothetical.

16 CHIEF FOBISTER: A. Yeah. I think, you
17 know, I make my point here that, you know, I tried to
18 illustrate before and you simply have not understood
19 it, that when you talk about hunting and fishing
20 rights, you know, we're talking about this Treaty
21 signed in 1873. Those were economic development, you
22 know, issues we're talking about at those times, you
23 know, we didn't have pulp and paper mills at the time -
24 I don't think so - we didn't have speed boats running
25 around or Americans fishing up in Canada here.

1 Now, what I'm saying is that, you know,
2 you've asked me about, you know, environmental rights.
3 I think environmental rights really speak for is the
4 the main culprits that would destroy the habitats of
5 the fish.

6 Q. I'm sorry, I didn't understand that.

7 A. The environmental rights I think, you
8 know, having a say is knowing who the real culprits are
9 in destroying all the fish and inhabitants of wherever
10 the environment is for these animals.

11 Q. Right. You want to know who is
12 causing the damage, or who might be causing the damage
13 and you want to make sure that there were some
14 restrictions out there to make sure that didn't happen?

15 A. Yes.

16 Q. Could you look at your draft terms
17 and conditions, draft terms and conditions page No. 3.
18 It indicates in paragraph 2(b) that in these
19 negotiations that you want to be undertaken that:

20 "The proponent shall, without delay,
21 take the actions necessary to prevent,
22 mitigate or remedy effects of the
23 undertaking on the environmental
24 rights of Indians under Treaty No. 3 as
25 may be agreed and settled pursuant to the

1 aforesaid negotiations."

2 I take it from that that the exact nature
3 of the environmental rights that you refer to in the
4 witness statement are not defined and that they are to
5 become part of the agreed -- something to be agreed and
6 settled pursuant to the negotiations?

7 Do I understand your term and condition
8 correctly?

9 CHIEF FOBISTER: A. You can say that,
10 yes.

11 Q. Thank you. You talked about
12 clearcuts. Just a few questions about that. You were
13 asked an interrogatory in relation to clearcutting and
14 it was Interrogatory No. 5 - if I could just have a
15 moment, I want to just...

16 You were asked in relation to page 6,
17 paragraph 29:

18 "Are there no circumstances in which
19 clearcutting is an appropriate
20 silvicultural system? In what
21 circumstances would there be selected
22 forest cutting?"

23 The answer was:

24 "Clearcutting as it is now done would
25 never be appropriate because the

1 wasted tree parts left behind. 'Selected
2 forest cutting' would be used in all
3 circumstances and means that all aspects
4 of the forest would be regarded before
5 trees were harvested."

6 I've listened to your evidence today and
7 I have heard from Mr. Watts and other members of Treaty
8 No. 3 in earlier panels. And do you understand what
9 the term 'clearcut silvicultural system' means; are you
10 familiar with that technical term?

11 A. If I know what it means. I may have
12 a different interpretation than what your
13 interpretation is.

14 Q. What is your interpretation of that
15 phrase?

16 A. Silviculture to me is, like, you move
17 into a territory where -- what I've seen happening on a
18 reserve we've -- these people are involved in reseedling
19 and tree planting projects layouts in our communities,
20 but as far as that goes it's, I guess, in some ways too
21 it provides job opportunities for our people.

22 Q. All right. What I'm driving at,
23 Chief Fobister, is: This answer suggests, and I got
24 the impression from your evidence today, that the thing
25 that bothers you about what you call clearcutting is

1 that there is waste of material, there's material left
2 on the ground, branches and things which you feel could
3 be utilized.

4 I'm about that?

5 A. Let me get one thing. This is only
6 what the elders told me. I said that in bringing
7 evidence what the elders were saying, okay.

8 Q. All right. So the elders, the
9 concern that the elders have that you are bringing
10 forward about clearcutting is the waste of wood, the
11 leaving of wood lying on the ground and it's not being
12 used for anything; is that correct?

13 A. That's correct.

14 Q. Now, we have heard evidence about
15 when you go out and cut certain kinds of trees, you
16 just don't go out and take one here and one there, that
17 you cut down a lot of trees in one area and then you
18 might go back and, let's say, plant trees to replace
19 the ones you've taken.

20 The cutting down of all of those trees,
21 most of the trees in an area, has been referred to in
22 the hearing as clearcutting.

23 Now, do you have -- does Treaty No. 3
24 have an objection to an approach where one goes in and
25 in an area cuts down most of the trees if it's followed

1 up by -- pardon me, and all the branches and things are
2 taken off the site and the site is planted so that a
3 new forest grows there. Do you have an objection to
4 that kind of an operation.

5 A. Yes.

6 Q. Yes you do, or yes --

7 A. Do we have an objection to that kind
8 of an operation?

9 Q. Yes.

10 A. If we knew that the resource is
11 utilized of the whole tree.

12 Q. The whole --

13 A. The tree.

14 Q. The whole tree, yes.

15 A. The tree is utilized. In some
16 circumstances we see it's also a benefit and food for
17 animals.

18 Q. When you use the term 'selected
19 forest cutting' in your answer, you say it is a means
20 that all aspects of the forest would be regarded before
21 trees were harvested.

22 I take it then that if a harvesting
23 operation was planned and took place after there was
24 consideration of making sure it didn't have an adverse
25 effect on wildlife, it wouldn't have an adverse effect

1 on fish, and the material that was cut was utilized to
2 the greatest degree possible, and then the area was
3 regenerated, that that would be acceptable to you, that
4 would be selected forest cutting.

5 A. No.

6 Q. All right. Can you explain your
7 answer why it wouldn't be?

8 A. I lost you there for a while. What
9 was your specific question?

10 Q. All right. Just give me one moment.

11 A. I don't think you know what you're
12 asking.

13 Q. Oh, I do. I'm just not being very
14 clear about communicating it, obviously.

15 I think I'll just stick with the answer I
16 got and move on, otherwise we may be here forever.
17 This may be a good way for us to move on.

18 You commented in your evidence today,
19 Chief Fobister, about clearcutting. You said that your
20 fear is because of what I have seen in British Columbia
21 it's an absolute disaster, what I see around the world,
22 it is frightening, and then you went on and said, here
23 we have three seasons where the lands can renew - you
24 may have used the word recover, I didn't get it down -
25 itself, and that's not available in the hotter areas.

1 Now, how much of your concern about --
2 well, first of all, when you refer to clearcutting in
3 that evidence you had a fear because of what you had
4 seen in B.C., were you talking about areas where they
5 had cut the trees and left them all over the place, or
6 were you referring to something else?

7 A. I was referring to the fact just what
8 happened in Amazon and places like that where it came
9 out on the news specials, David Suzuki's, you know,
10 reports, environmental disasters in terms of forest.

11 Q. Right.

12 A. And I'm saying that, you know, those
13 are much more harsh countries, you know, here I'm
14 beginning to think we don't have that much soil, it
15 wouldn't take much place to dry up if there's a drought
16 and be just bear rock.

17 Q. I know you have comments in your
18 witness statement about your comfort with scientific
19 studies and scientific opinions. Have you ever
20 received an explanation about the differences between
21 clearcutting in B.C. and in places like the Amazon and
22 clearcutting in Ontario?

23 A. I have only seen it in, say -- like,
24 I don't know how, you know, credibility this
25 information has, but I'm seeing it from a point where

1 these are all Canadian people who are environmental --
2 who have these environmental concerns and -- I mean,
3 these are Canadians, I don't know, it's Canadian
4 scientists obviously, so I take them that they are
5 right.

6 Q. All right. So you would be willing
7 to accept what Canadian scientists say that the
8 differences -- well, if Canadian scientists said that
9 there are differences between clearcutting in British
10 Columbia and the effects on the environment and
11 clearcutting in Ontario, would you be willing to accept
12 what the Canadian scientists say about that?

13 A. I'm just saying that, you know, in
14 B.C. they do have a lot of rain, but they practically
15 have one season, but in this area here we have -- we
16 have four seasons per se, spring, fall, summer, winter.

17 But lately, you know, if you may think if
18 there is a change of weather conditions it is something
19 that I don't take lightly.

20 Q. Okay. Let me just jump back to the
21 issue about compelling the Ministry to negotiate the
22 matters set forth in your terms and conditions. Can
23 you tell me whether you have any proposal as to what
24 should happen -- sorry, just one moment, please.

25 What's supposed to happen to the approval

1 of the undertaking if there's a decision by the
2 Minister of the Environment or the Board that the
3 negotiations aren't being conducted satisfactorily?

4 A. It wouldn't be something new, they
5 would discover it's already been happening. It's
6 nothing new to me.

7 Q. Well, I don't understand your answer.
8 Your terms and conditions suggest that there be -- that
9 the Ministry of Natural Resources be compelled to enter
10 into negotiations, that there be a report prepared on a
11 regular basis as to the status of those negotiations.

12 What's the Minister of the Environment
13 supposed to do with this report? I am looking at
14 bottom of -- top of page 4 of your terms and
15 conditions.

16 MR. COLBORNE: Was there not an
17 interrogatory about this?

18 MR. FREIDIN: There may have been, I just
19 can't -- if there was, I apologize. Oh yes, I believe
20 there is, maybe 13. Sorry.

21 MR. COLBORNE: Yes, it would be 13(b).

22 MR. FREIDIN: Q. All right, I guess
23 we've heard -- 13(b) indicates the purpose for which
24 there is to be a public record. The question was --
25 look at 13(b), it says:

1 "The proposed terms and conditions of
2 Grand Council Treaty No. 3 suggest that
3 annual reports concerning various
4 negotiations be provided to the Minister
5 of the Environment."

6 The question is:

7 "What is the purpose of providing such
8 a report to the Minister of the
9 Environment and what actions does Grand
10 Council Treaty No. 3 expect the Minister
11 of the Environment to take upon receipt
12 of such reports?"

13 Now, it certainly indicates that the
14 purpose is to create a public record, but I'm not too
15 sure that the second part of the question has been
16 answered, what do you expect the Minister of the
17 Environment to do upon receipt of such report, or do
18 you have any suggestions?

19 CHIEF FOBISTER: A. You said the
20 Ministry of Environment, or Minister of Environment?

21 Q. Minister of the Environment.

22 A. I would hope that, you know, for
23 whatever we would be engaging in discussions with the
24 province in the future that we would try and work
25 towards, you know, whatever the recommendations that

1 are going to be made in terms of that report.

2 Q. If there is a lack of success in the
3 eyes of Treaty No. 3 with the negotiations you're
4 talking about in those terms and conditions, is Treaty
5 No. 3 going to come back to the Board and say that any
6 approval or any acceptance of the environmental
7 assessment should be revoked?

8 MR. COLBORNE: I have to speak at this
9 point. I think that question does cross the line into
10 legal opinion.

11 I can say I haven't even addressed my
12 mind to the jurisdiction questions and so on that are
13 implied in that, but I will leave it to the Board to
14 rule on whether the question has crossed the line of
15 asking these witnesses for their legal opinion as
16 opposed to asking these witnesses for evidence of fact
17 and evidence concerning their organization's policy.

18 MR. FREIDIN: Well, it's been the
19 practice here, Madam Chair, in many cases to look to
20 counsel and say: Well, what is your view on that, so
21 that people know what we're dealing with.

22 If Mr. Colborne can answer that question,
23 I'd be satisfied with that. I don't want to take the
24 time to drag it out with the witnesses, if they're not
25 in a position to provide the answer.

1 MR. COLBORNE: Well, it's been a long
2 haul. This is dated January, 1990, I obviously wrote
3 it, it's about as legalistic as these things can get
4 and, as I say, I haven't - at least not recently -
5 addressed my mind to the rather technical question of
6 what exactly are the rights, if any, remaining in a
7 party such as Grand Council Treaty No. 3 if following
8 the conclusion of this process and the required
9 decision, reports of the Board that it emerges that the
10 negotiations which my clients are asking for are not
11 proceeding in a bonafide fashion, my rather superficial
12 impression right now is that the party in that case
13 would be left to devices outside the purview of the
14 Environmental Assessment Board, whatever those devices
15 may be, and they may be nothing more than the political
16 arena.

17 In other words, when I wrote these I did
18 not have in mind that the party who I represent would
19 have the ability to, from time to time, require that
20 the Board reconvene and supervise negotiations, that
21 was not part of the scheme of things that I was
22 thinking about or the scheme of things which I
23 discussed with the Chiefs when they gave approval to
24 these draft terms and conditions.

25 I'm not sure if that answers the

1 question.

2 MADAM CHAIR: Well, it raises a question
3 in the Board's mind and that, again, is I'm going to be
4 asking for a clarification about what negotiations
5 you're talking about.

6 Are you talking about the negotiations
7 that the Board has directed must take place in August
8 with respect to all parties' terms and conditions,
9 draft terms and conditions if the EA is approved; or
10 are you talking about another set of negotiations that
11 appear to have been embarked upon in some way already
12 by Mr. Wildman's correspondence of May of this year?

13 Because if it's the former, you're going
14 to know very early on that they have failed and the EA
15 hearing will continue for some time after the failure
16 of those negotiations, and so it will become something
17 still within the purview of your party to deal with
18 before the Board.

19 MR. COLBORNE: Yes. It's not the former;
20 but, I hate to confuse things, it's not the latter
21 either.

22 MADAM CHAIR: That's what I was afraid
23 of.

24 MR. MARTEL: What are they then?

25 MR. CASSIDY: Tell us.

1 MR. MARTEL: I hate to ask.

2 MR. COLBORNE: It anticipates my final
3 submissions, but I don't mind trying to outline it here
4 in very brief form.

5 I'm of the view that the paragraphs of
6 Section 14 of the Act that I have referred to in the
7 draft terms and conditions give the Board ample
8 authority to say to the proponent: You must enter into
9 an agreement but - I have to very careful at this
10 point - but that requirement to enter into an agreement
11 does not say: You must agree to settle such and such a
12 thing. The agreement is to negotiate.

13 And so once there is, pursuant to that
14 order of the Board, an agreement between the proponent
15 and a party, Grand Council Treaty No. 3 for instance,
16 an agreement to negotiate in good faith, that agreement
17 is then in place and that is the end of the role of
18 this Board.

19 If following conclusion of this entire
20 process one party or the other to that agreement is
21 breaching it, then it's a matter of contract. The
22 agreement is in place, it's not a matter where one
23 would have to turn back the clock and reconvene the
24 Board and say: Wait a second, this agreement is not
25 being carried out, because the agreement itself would

1 contain its own duties and obligations as between the
2 parties to it.

3 And basically it will be my submission
4 that Section 14 of the Act gives you the power to make
5 that order and that would be the end of your
6 participation.

7 If a year down the line after the
8 decision of this Board is rendered Grand Council Treaty
9 No. 3, for example, says they're not negotiating in
10 good faith, they're not coming back to the
11 Environmental Assessment Board with that, they would be
12 either in the political arena, they might be in court
13 saying: Hey, we have a contract.

14 Now, it may be that the Ministry of
15 Natural Resources was required by the Environmental
16 Assessment Board under the Environmental Assessment Act
17 to sign this contract, but it's irrelevant why they
18 signed it, they did sign it and it says in here they
19 are supposed to be negotiating in good faith and here's
20 our proof that they're not negotiating in good faith
21 and now we're asking the court to give us some kind of
22 remedy under the contract.

23 But that leaves the Environmental
24 Assessment Board under no continuing duty to monitor or
25 supervise an admittedly difficult and probably

1 long-term process.

2 It's really just asking for a good kick
3 start in the process and one that has some
4 enforceability in it.

5 MADAM CHAIR: I dare say, Mr. Colborne,
6 nothing on this earth could get Mr. Martel and I to
7 reconvene this panel after we have submitted our final
8 decision.

9 All right. We are willing to put that
10 aside now; are you, Mr. Freidin? You have had, after
11 all, a year and a half to go through some of this --
12 get a better appreciation of what's in this slim
13 document of terms and conditions that Mr. Colborne has
14 written. We don't want to spend any more time on that
15 tonight.

16 How many more questions do you have to
17 put to the witnesses?

18 MR. FREIDIN: Not very many, not very
19 many at all.

20 MADAM CHAIR: Okay, good. It's 10:00
21 p.m.

22 Chief Fobister?

23 CHIEF FOBISTER: Can I ask for about five
24 minutes?

25 MADAM CHAIR: Of course, let's -- is that

1 convenient with you, Mr. Freidin, to have a break?

2 MR. FREIDIN: Sure.

3 MADAM CHAIR: Okay. Let's have a break.

4 ---Recess taken 9:55 p.m.

5 ---On resuming at 10:05 p.m.

6 MADAM CHAIR: Please be seated.

7 Please continue, Mr. Freidin.

8 MR. FREIDIN: Q. Chief Fobister, or any
9 other member of the panel, are any of you familiar with
10 any of the guidelines that the Ministry of Natural
11 Resources has and uses to protect fish or other
12 wildlife from timber management activities?

13 CHIEF FOBISTER: A. It seems like we --
14 for myself anyway, we've encountered -- I've
15 encountered at least one policy.

16 Q. And that policy was in relation to
17 what, Chief Fobister?

18 A. Well, it had to relate to where we
19 have asked permission to cut certain trees by a
20 lakeshore and they told us that they had guidelines in
21 terms of that they had to do a study first as to
22 knocking the tree down to a lake just to ensure that,
23 you know, it's not a spawning area.

24 Q. All right.

25 A. Something to that nature anyway.

1 Q. Okay. And do any of you other
2 gentlemen have any experience or knowledge about any
3 other guidelines that the Ministry has and uses to
4 protect things such as fish and wildlife from timber
5 management activities.

6 CHIEF FOBISTER: A. You're asking me?

7 Q. Yes. If the answer is no, that's
8 fine. You're shaking your head no, Chief Perrault?

9 CHIEF PERRAULT: A. No, I don't--

10 Q. That's fine.

11 A. --except for the one that Grand Chief
12 Fobister mentions about supposed to be leaving
13 something inbetween a cut and a lake.

14 Q. All right. Chief Chicago?

15 CHIEF CHICAGO: A. No.

16 Q. Thank you. Could you refer to
17 Interrogatory 10(b). I think this will be my last
18 question.

19 This question was asked in relation to
20 paragraph 52 of your witness statement, and the
21 question that -- (b) is the one I'm interested in, it
22 says:

23 "Does Grand Council Treaty No. 3 agree
24 that information about present and recent
25 uses of off-reserve forest resources by

1 Treaty No. 3 members is important to
2 resource managers; if not, why not?"

3 MR. COLBORNE: Excuse me, there was a
4 typographical error here.

5 MR. FREIDIN: Oh.

6 MR. COLBORNE: And I may be able to
7 assist because I have what the typist was working from,
8 and it says 'important' not 'unimportant' which
9 completely reverses the meaning of the last clause.

10 But I just looked at it just now, as Mr.
11 Freidin raised it, so I want to be sure I am correct
12 that this is just a typographical error.

13 MR. FREIDIN: All right. So how is --
14 when you answered the question did you think it said
15 important or unimportant?

16 I'm not too sure whether it changes the
17 answer. Let's just look at the answer for a moment.
18 It says:

19 "As long as resource managers mean MNR
20 and MNR remains deeply opposed to
21 the recognition of Indian land and
22 resource rights, then such information is
23 unimportant to MNR in efforts to
24 minimize these rights."

25 Is that the answer that we should have?

1 MR. COLBORNE: The answer that you should
2 have is that it is important, not unimportant, using
3 the term 'unimportant' is a typographical error.

4 MR. FREIDIN: The words should be --

5 MR. COLBORNE: Important.

6 MR. CASSIDY: Important not unimportant.

7 MR. FREIDIN: Q. So I take it then is
8 the gist of the answer then that Treaty No. 3 agrees
9 that it should be involved in providing information to
10 MNR as a resource manager about their present and
11 recent uses of off-reserve forest resources.

12 CHIEF FOBISTER: A. If such arrangement
13 is, you know, can be made.

14 Q. Well, is Treaty No. 3 willing to
15 provide information to the Ministry about things of
16 value to them, whether they be trap lines, whether they
17 be burial sites, historical sites, in order that
18 informed decisions can be made during timber management
19 planning?

20 A. I believe, taking the position that
21 some Bands have, that is the direction that we like to
22 exercise.

23 Q. What direction is that?

24 A. It's providing those type of things
25 that you've mentioned.

1 Q. All right.

2 MR. FREIDIN: Those are my questions.

3 Thank you.

4

5 MADAM CHAIR: Thank you very much, Mr.

6 Freidin.

7 MADAM CHAIR: Mr. Colborne, do you wish

8 to re-examine the witnesses?

9 MR. COLBORNE: Very briefly.

10 RE-EXAMINATION BY MR. COLBORNE:

11 Q. Mr. Freidin asked you some questions

12 about co-management. Are co-management agreements

13 actually being put on the table now in some

14 communities?

15 CHIEF FOBISTER: A. There is an approach

16 to the word co-management, but the thing that remains

17 to be seen is to find a definition of what

18 co-management means.

19 Q. Whatever it means, are there

20 proposals that might be called that being put on the

21 table at the present time by various Treaty 3

22 communities?

23 MR. FREIDIN: Well, I'm just wondering

24 how he can answer that. He says the problem is trying

25 to define what it is. So he says, yes, we don't know

1 what it is that's being put on the table.

2 CHIEF FOBISTER: We know what it is, but
3 you have a different -- MNR has a different meaning of
4 that and they haven't -- in fact, we're sort of
5 wrestling with our left arm and right arm in terms of
6 the two definitions that have been suggested. In fact,
7 you know, it's going to be a legal definition.

8 MR. COLBORNE: Q. I would like to
9 approach this point of re-examination from a slightly
10 different angle.

11 Given the ambiguity about the use of the
12 term co-management, Mr. Freidin asked you some
13 questions that to me sounded like him saying: Can you
14 give us some more concrete examples.

15 So my question is: Are you aware of any
16 examples that are being put on the table by Treaty 3
17 communities at the present time?

18 CHIEF FOBISTER: A. I think an example
19 with that would be, there was something in relation to
20 Grassy Narrows or First Nations, the arrangement that
21 they have with the marina would be something -- you
22 know, could be an example I guess in some ways that
23 they have minimum control in terms of, you know,
24 controlling the access point to certain designated camp
25 sites in the area.

1 But when you look at it, you know, it is
2 not a complete arrangement because, you know, there's
3 still some holes in the bucket as far as that
4 arrangement is made.

5 Q. If arrangements of that type come
6 into the possession of Treaty No. 3 and if you have
7 authority to release them, would you be prepared to
8 provide them to MNR within this hearing process as the
9 kind of examples that Mr. Freidin was asking for?

10 CHIEF PERRAULT: A. I guess that's
11 exactly like what you would say. If a community is
12 entering into some arrangement, that's where we receive
13 our authority to release that, it would be up to that
14 community.

15 But I think if what you're saying is, are
16 there things being looked at, I'm sure that somethings
17 are being looked at but by certain communities. I
18 guess we would have to talk to our communities and see
19 if they're willing to share that agreements.

20 Was this question asked previously before
21 we came back from Winnipeg to any of the Chiefs that
22 provided evidence?

23 Q. Well, maybe I should explain the
24 question. This hearing is going to continue after the
25 Treaty 3 evidence is heard, and if information that

1 would be responsive to the inquiries of Mr. Freidin
2 comes into Treaty 3's possession after, would you be
3 willing, if you have the permission from the
4 communities, would you be willing to provide it?

5 A. I think we would. Permission from
6 the communities is all we would need.

7 Q. My next question has to do with the
8 letter dated May 15th, 1991, which is Exhibit 1894
9 addressed to Grand Chief Fobister and signed by Bud
10 Wildman, Minister responsible for Native Affairs.

11 My question to any member of the panel
12 is: Do you think that such a letter would have been
13 forthcoming if it was not for this hearing process
14 we're now in?

15 CHIEF FOBISTER: A. I don't believe a
16 letter of that nature would have been forthcoming if it
17 hadn't been for this type of session that we have here.

18 Q. My next question has to do with
19 another document that Mr. Freidin produced which is the
20 Interim Enforcement Policy, Exhibit No. 1895.

21 I believe it was Chief Perrault who said
22 he was at the meeting within the past short -- very
23 short period of time where Ontario continued to refuse
24 to agree to negotiate or at least declined to say
25 anything clear about negotiating a fishing agreement

1 with Treaty No. 3.

2 My question is: Was that meeting a
3 meeting when this Interim Enforcement Policy was under
4 discussion?

5 CHIEF PERRAULT: A. I raised the issue
6 but it was Mr. McInnes that dealt with that meeting. I
7 was not at that meeting.

8 Q. Very well. Mr. McInnes?

9 MR. McINNES: A. Repeat the question. I
10 am thinking about a phone call I should have made to my
11 wife six hours ago, now I'm AWOL.

12 Q. I'll try to shorten it up. I'm
13 referring to Exhibit 1895, Interim Enforcement Policy.
14 We heard a while ago that not long ago there was a
15 meeting at which Ontario declined to agree to negotiate
16 the Treaty 3 fishing issue.

17 My question is: Was that a meeting that
18 concerned this document, this Exhibit 1895?

19 A. Yes, it was.

20 Q. My last question by way of
21 re-examination has to do with the concept of
22 clearcutting. There were several questions concerning
23 this from Mr. Freidin.

24 My question is to Grand Chief Fobister.
25 Does your evidence concerning clearcutting apply to any

1 size of clearcut whatever; that is, from the smallest
2 to the largest, or does your evidence concerning
3 clearcutting have any size cut-off criteria?

4 CHIEF FOBISTER: A. I more or less was
5 looking at more of a size of a criteria of an area.

6 Q. If I understand what you're saying
7 correctly -- well, go on, if you were not finished.

8 A. No, go ahead.

9 Q. Is there a size below which your
10 comments would not apply; and, if so, what is that
11 size?

12 A. Actually I have never went and
13 measured an area. Maybe if we look at areas -- we have
14 been more exposed to cutting areas have been very
15 small. We -- generally the areas that I'm merely, if I
16 can put it that way, opposed to is the endless, the
17 endless acres and acres of clearcutting that is
18 currently being demonstrated is something that I
19 object. I guess I'm looking at perhaps, you know,
20 perhaps a mile long and a mile and a half, in that
21 area.

22 MR. COLBORNE: Thank you. Those are my
23 questions by way of re-examination.

24 MADAM CHAIR: Thank you very much, Mr.
25 Colborne.

1 Chief Fobister and Chief Perrault and
2 Chief Chicago and Mr. McInnes, the Board thanks you
3 very much for coming here today. It's turned into an
4 endurance test and we understand how busy you've been
5 and we very much appreciate you coming here and giving
6 us your evidence. Thank you very much.

7 Mr. Colborne, we're at the end of your
8 case almost, with the exception of the outstanding
9 issue of perhaps looking at an IFDP forest management
10 plan, or Mr. Simmons, or however you and Mr. Freidin
11 work out that matter.

12 MR. COLBORNE: That's right. There are a
13 couple of other housecleaning matters which I will
14 simply mention, I guess, for purposes of the record.

15 I said earlier that I intended to file as
16 an exhibit the combined collections of all
17 interrogatories and all replies, and some replies to
18 interrogatories remain outstanding.

19 I will continue to work on that and
20 hopefully have something approaching a complete set of
21 replies and, for that reason, I am not going to be
22 filing it today, but in good time.

23 Similarly, I believe I mentioned that I
24 intend to file what might be called an errata document
25 with respect to minor errors in our witness statements

1 which have been picked up over time, and that would
2 also form part of the Treaty 3 case. And, again, that
3 will be filed hopefully when we finish identifying all
4 these minor errors. Other than that, the Treaty 3 is
5 case is concluded and I thank you for your patience and
6 attention.

7 MADAM CHAIR: Thank you, Mr. Colborne,
8 and the Board compliments you on a very efficient
9 delivery of your evidence before us here in Kenora and
10 Fort Frances. Thank you.

11 CHIEF PERRAULT: Excuse me, can I make a
12 comment?

13 MADAM CHAIR: Yes, Chief Perrault.

14 CHIEF PERRAULT: Being that you're in my
15 tribal territory, I would like to thank everybody for
16 coming here and I hope our presence here will assist
17 the Board in what your final decision has to be or will
18 be, and I would like to thank people for coming into
19 the Treaty 3 territory and consider yourself welcome
20 here.

21 MR. FREIDIN: Thank you.

22 MADAM CHAIR: Thank you.

23 ---Whereupon the was hearing adjourned at 10:25 p.m.,
24 to be reconvened on Tuesday, August 20th, 1991,
25 commencing at 2:00 p.m.

25 KM/BD [c. copyright 1985]

